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**IOWA ECONOMIC HISTORY SERIES**

**EDITED BY BENJAMIN F. SHAMBAUGH**








**TAXATION IN IOWA**





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IOWA ECONOMIC HISTORY SERIES  
EDITED BY BENJAMIN F. SHAMBAUGH

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HISTORY OF  
TAXATION IN IOWA

BY  
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VOLUME I

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## EDITOR'S INTRODUCTION

The writing of a history of taxation in Iowa is not an easy task; indeed, it involves many difficult problems both of research and of presentation. From beginning to end the scientific investigator is really embarrassed by a superabundance of materials. The statute books of the Territory and State, the journals of the legislature, the messages of Governors, the reports of Auditors and Treasurers, the reports of special commissions, the decisions of courts, the financial reports of counties, special and miscellaneous public documents, and tons of newspapers yield a richness of data that is inviting and at the same time appalling. The facts and statistics of industrial and economic developments, covering nearly three quarters of a century, are equally abundant and far more difficult to obtain. The problems of handling such masses of detailed information fully, accurately, and without confusion can only be appreciated by those who have successfully carried to completion similar investigations.

But the problems of historical research are not the only difficulties which confront the writer of such a history of taxation as has been produced by Professor Brindley. Underlying the statute and code provisions, the reports of public officials, the decisions of courts, and the facts of industrial life are fundamental economic principles and theories which must not only be



seen and appreciated by the investigator but by him also successfully handled as scientific interpretations of the facts of history. And of no less importance are the problems of politics and administration involved in the actual workings of the machinery of assessment, equalization, and collection.

Moreover, the opportunities for utilizing and making practical application of the results of historical research are perhaps nowhere more promising than in the field of fiscal legislation and administration. Nowhere, indeed, are there to-day greater opportunities for the science of Applied History than in the solution of the complex problems of tax reform. At the same time there is no line of reform that is more difficult and perplexing, since from the very nature of the problems involved the whole subject is one which is too often handled with prejudice, or partisanship, or from the standpoint of selfish interest. Indeed, any program of tax reform is sure to be more or less unpopular and meet with opposition simply because the subject of taxation is affected with so much individual self-interest. The small taxpayer will undoubtedly favor much needed reforms in regard to the taxation of public utility and other corporations and demand that they may be compelled to bear their just share of the burdens of the State; but the same small taxpayer will probably be shocked when he is told that tax reform means that he too must clear himself of dishonesty and perjury — especially in reporting moneys and credits. Effective tax reform will consist not simply in perfecting the machinery of as-

assessment, equalization, and collection, but in arousing a public conscience which will demand an honest declaration of property from big and little property holders alike.

This work on the *History of Taxation in Iowa* might have been concluded with Chapter XXIII, but for the fact that underlying the *Iowa Economic History Series* is the conviction that history not only can but should be applied in the solution of the practical problems of social life. And who is better able to suggest a program of tax reform than the disinterested student who has devoted years to the historical and critical study of the subject of taxation? And so the author of this work was especially urged by the editor of the series to prepare Chapter XXIV on *Historical Analysis of the Iowa Revenue System* and Chapter XXV on *Comparative Study and the Problem of Tax Reform in Iowa*. All who are really interested in the practical solution of the problems of taxation in Iowa from the standpoint of the public welfare will welcome the results of Professor Brindley's painstaking investigations. In all essential points Professor Brindley's work will be found to be complete, accurate, and the product of disinterested scholarship.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR  
THE STATE HISTORICAL SOCIETY OF IOWA  
IOWA CITY 1910





## AUTHOR'S PREFACE

The subject of taxation as presented in these volumes has been treated essentially from the standpoint of historical research; and for that reason, the work is logically included in the publications of The State Historical Society of Iowa. While the facts outlined in the narrative constitute a study in public administration, the monograph considered as a unit is first of all a contribution to Iowa history.

It has seemed logical and desirable to arrange the work in four divisions or parts. Part I deals exclusively with the so-called general property tax, it being presumed that an historical survey of the machinery of administration for the work of assessment and equalization on the one hand and the levy and collection of taxes on the other is a necessary introduction to a thorough study of the many complex questions which arise in the field of State and local taxation. Parts II and III comprise an historical and critical review of certain special problems in taxation. In most, if not all, cases these problems are directly or indirectly connected with the general property tax; and in fact, some chapters are simply more specific statements concerning certain elements of that important tax. Part IV gives, first, an historical analysis of the Iowa revenue system, and second, a brief comparative study of the experience in other States, which, taken together, form the corner-stone of scientific tax reform, based as it should be upon the laws of fiscal evolution.



The *History of Taxation in Iowa* thus outlined, and embracing twenty-five chapters of text, twelve hundred and forty-eight notes and references, and four appendices, has been written primarily for the benefit of the people of Iowa in the hope that it may be of service to them in the gradual solution of the great problem of equal and uniform taxation. At the same time, an earnest effort has been made to make the work complete and accurate from the standpoint of historical research as well as scientific from the standpoint of public administration and public finance.

Manifestly an historical study of taxation may be made according to two essentially distinct methods of investigation. On the one hand, a few leading and generally accepted ideas, having the stamp of age and authority — such as the unqualified condemnation of the general property tax, the contention that the personal property tax is the greatest of all “fiscal abominations”, the imperative necessity of an elaborate classification of property for purposes of taxation, the separation of revenue sources, “home rule” in taxation or distribution on the basis of expenditures — may be woven into a more or less hasty review of tax laws, including perhaps an occasional executive document or court decision, and the product called a financial or tax history.

On the other hand, the facts of revenue history may be diligently collected and impartially sifted without being colored and warped out of their true relationship by preconceived opinions or approved economic theories, the motives of men and perhaps sections or economic groups fearlessly examined, arguments for and against a particular reform carefully weighed, in fact a thorough historical and comparative study made in order to distinguish between

those elements of the present revenue system which are outworn and useless and those which are permanent and vital. In other words, one may endeavor to make the facts harmonize with orthodox opinions, or adopt the scientific but more arduous task of frankly recognizing all the facts and reshaping theory itself, when it becomes necessary, in an effort to formulate a more accurate and comprehensive expression of the truth.

In these two volumes on the *History of Taxation in Iowa* an earnest effort has been made to follow the latter course and thus meet the first requirement of The State Historical Society of Iowa that whatever is published under its auspices should be the product of genuine scientific historical research.

These considerations explain the length of the monograph; the numerous quotations in the text from laws, executive documents, newspaper files, court decisions, and other sources; the extensive notes and references; and finally, the extensive appendix. While the author has some ideas of his own, which he has not hesitated to express in Chapters XXIV and XXV of Volume II, he has aimed to avoid even the appearance of dogmatism, and for that reason has made the references to source material fairly complete so as to enable the reader to verify the statements in the text and to form independent judgments.

It will be generally conceded that the true solution of any great political, social, or economic question must be evolutionary and not revolutionary — in other words, it should be judiciously approached from the standpoint of the historical method. For example, scientific tax legislation in Iowa is possible only on the basis of a true history of the revenue system coupled with a critical study of the ex-



perience of other States. But while this truth will be almost universally recognized, especially by the so-called historical school of economists, the reformer or even the trained economist seldom takes the trouble to make a thorough and impartial investigation of facts.

The author desires to state, however, that the preparation of this monograph was not undertaken for the purpose of advocating any particular plan of reform. On the contrary, he began work more than two years ago reasonably convinced that the general property tax is a miserable failure, that the personal property tax should be abolished, that moneys and credits should be entirely exempted from taxation, and finally, and that the principle of the separation of revenue sources is a necessary asset in any successful program of State tax reform. In the course of the investigation, fundamental changes in these views have been imperative in order to make them harmonize with conditions as they are in a real not a fictitious environment.

Among other things it has been discovered (1) that the breakdown of the general property tax is primarily from the standpoint of administration, the logical and only remedy for the same being a permanent tax commission and the gradual evolution of a more centralized and efficient system of assessment; (2) that while substitutes should gradually be found to take the place of the worn-out personal property tax, it is necessary to approach this task with great caution and make haste slowly; (3) that the underlying principle of general property taxation (assessment at full value) is sound from an historical, legal, and economic standpoint, and therefore may reasonably be expected to endure; and (4) that the principle of segregation as generally advocated has no logical place in a system of central-

ized assessment, but that in lieu of this principle a clear line of demarcation should be drawn between local and non-local property or business for purposes of taxation in order to insure equality and uniformity of taxation as between the various taxing districts of the State.

It will be observed that public expenditures and public debts, also special assessments and the fee system, are not treated in these volumes. These are proper subjects for separate historical monographs which may be published at some future time by The State Historical Society of Iowa. In fact public revenues, public expenditures, and public debts, are the distinct and logical subdivisions of a general work on public finance. As to fees and special assessments, they are not taxes in either a legal or an economic sense, and for that reason should not be included in a history of taxation.

In the preparation of the manuscript, recognition should first be made of the able and helpful services of Professor Benj. F. Shambaugh, Superintendent of The State Historical Society of Iowa. On the one hand, the amount of routine work required has been materially decreased by the efficient laboratory of historical research created by years of patient and careful labor on the part of Professor Shambaugh; and, on the other hand, through numerous conferences, the author has received valuable suggestions as to the arrangement of material and form of presentation. Any research worker by coöperating with The State Historical Society of Iowa can at least double the efficiency of his labor, thus saving his own time while the expense to the State through wise correlation of effort is reduced to a minimum.

Professor B. H. Hibbard, Head of the Department of Economics and Political Science at the Iowa State College of



Agriculture and Mechanic Arts, made the original suggestion regarding the present system of unjust railway tax distribution in the rural districts, stating that the same would be a fruitful and important field of investigation. Professor Hibbard and Professor L. B. Schmidt have also kindly read the proof sheets and made a number of helpful criticisms.

The author is likewise under obligation to former Governor William Larrabee of Clermont, who has supplied valuable source material from his own private collection and has given helpful advice as to certain parts of the manuscript. Much original data has also been obtained through the courtesy of Mr. A. H. Davison, Secretary of the Executive Council. The Iowa Tax Revision Association, and the Association of Iowa Tax Ferrets have also contributed much valuable information. For a careful reading of the proof sheets and for the compilation of the index the author is indebted to Dr. Dan E. Clark, Assistant Editor in The State Historical Society of Iowa.

JOHN E. BRINDLEY

THE IOWA STATE COLLEGE OF  
AGRICULTURE AND MECHANIC ARTS  
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PART I  
THE GENERAL PROPERTY TAX





## I

### THE TERRITORIAL PERIOD

1838-1846

The present State of Iowa was a part of the Territory of Michigan from 1834 to 1836 and of the original Territory of Wisconsin from 1836 to 1838, the separate Territory of Iowa being set apart by the provisions of an act of Congress approved June 12, 1838.<sup>1</sup> Accordingly, the system of taxation which prevailed in early Iowa was, first, that of the Territory of Michigan, and second, that of the original Territory of Wisconsin. This system, dating back to the beginning of the Michigan Territory in 1805 and borrowed for the most part from the older States, especially Ohio and Virginia, embraced such important elements as license taxes, the general property tax, county assessment, and a fiscal administration which was almost entirely *ex officio* in its personnel. These elements, moreover, clearly characterize the revenue acts passed by the original Territory of Wisconsin and copied almost verbatim by the first Legislative Assembly of the Territory of Iowa, the general revenue for the Territory in both cases consisting of five per cent of the gross amount of taxes received in the various counties.<sup>2</sup>

When the separate Territory of Iowa was established the legislative power, which embraced direct control of taxation, was vested in the Governor and a Legislative Assembly. The Assembly was composed of a Council of thirteen members and a House of Representatives of twenty-six members, elected by the people. Congress, however,

retained the power to veto Territorial legislation by providing that "all the laws of the Governor and Legislative Assembly shall be submitted to, and if disapproved by, the Congress of the United States, the same shall be null and of no effect."

According to the provisions of the Organic Act the legislative power of the Territory was made to include "all rightful subjects of legislation". In matters of taxation only two restrictions were placed on the Legislative Assembly: first, "no tax shall be imposed upon the property of the United States;" and second, "nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents."<sup>3</sup> The first restriction is still universally imposed upon all States and Territories, it being held by the Supreme Court of the United States that no State, Territory, or minor political unit can tax the instrumentalities of the general government. The second restriction, however, as we shall note later has been so loosely interpreted as to violate practically all rules of interstate comity in taxation.

Pursuant to the call of Governor Lucas the first Legislative Assembly of the Territory of Iowa met at Burlington in November, 1838. Among other acts provision was made by this Assembly for a county and Territorial revenue system. While much of the Territorial budget was provided for by appropriations from the Federal treasury, the burdens of local administration and a portion of the Territorial expenses were borne by the resident taxpayers. Machinery for the levy and collection of taxes had, therefore, to be provided by Territorial enactment. The result was the passage of two acts: first, "An Act for assessing and collecting county revenue", approved January 24, 1839; and second, "An Act to provide for a Territorial Revenue", approved January 25, 1839.<sup>4</sup> These acts, moreover, were almost exact copies of acts which had been passed one year



earlier by the Legislative Assembly of the original Territory of Wisconsin.

The measure entitled "An Act for assessing and collecting county revenue" is basic and fundamental, and should, therefore, be carefully studied. By the provisions of this act the county was made the unit for the levy and collection of the general property tax — a function which it still performs. The act declares "that for the purpose of raising a revenue for county purposes, the board of county commissioners shall levy a tax on all lands, town lots, and out lots, with the improvements thereon".<sup>5</sup> Following this are provisions concerning exemptions, license taxes, and a poll tax, all of which will be discussed in separate chapters.<sup>6</sup> Provision is made also for one county assessor to be elected annually at the time and place of holding the election for county commissioners. He is required to give bond and take an oath to be administered by the clerk of the board of county commissioners, said board being given power to fill all vacancies which may occur. The assessor so elected and qualified is required to deliver to the board of commissioners on or before the first Monday in July thereafter a full and complete assessment roll. The description of property contained in the assessment roll and the duties of all officials are carefully outlined.<sup>7</sup>

On the last Monday in June the assessor is required to attend at the office of the clerk of the board of county commissioners, and with the aid of said clerk to correct any errors or omissions in the assessment roll. The roll thus corrected is accepted and filed in the clerk's office to remain on record as a guide to future assessors. The compensation of assessors is fixed by the boards of county commissioners in their respective counties at such sums "as to them shall seem just and reasonable". The law, however, provides that deductions may be made from the sums thus paid on account of taxes collected from unassessed property.

From the assessment roll as corrected and filed, the board of county commissioners proceed to determine the tax rate at their session in July of each year.<sup>8</sup> The total amount of property and rate of tax being determined, it becomes the duty of the clerk to calculate and carry out the amount of taxes opposite to the specified property, lots, or lands charged with tax. The tax roll being completed in duplicate, one copy is filed with the county treasurer and the other, together with a precept in the name of the Territory, is delivered to the county collector. The sheriff who is made the county collector by the terms of the act is required to pay over all moneys collected by him and return the precept, together with the transcript of the tax roll and a full account of his official acts, to the clerk of the board of commissioners on or before the first Monday in January.<sup>9</sup> Collection of taxes must, therefore, take place between some time in July and the first Monday of the following January.

The remaining provisions of the act outline the method of selling property for delinquent taxes, the redemption of such property, tax deeds, and various other allied subjects. Taxes are made "a lien on the lands, or town lots, on which they may be due, in whosoever hands such lands, or town lots, may come".<sup>10</sup> The collector is authorized to receive orders regularly drawn upon the treasury of his county in payment of taxes. He is also entitled to certain fees stipulated in the act,<sup>11</sup> and is given the right to appoint as many deputies as he may think necessary or proper, who are in turn given full power and authority, the collector being held responsible for their acts. The concluding sections outline in detail the subject of licenses.<sup>12</sup>

The second act under consideration, entitled "An Act to provide for a Territorial Revenue", is composed of only four short sections.<sup>13</sup> The act is what the title indicates and provides that five per cent of the gross amount of taxes

charged on the assessment roll shall be set apart by the county commissioners as a debt due the Territory. Each county is required to furnish the Treasurer of the Territory with a statement of such debt together with a duplicate assessment roll. In conclusion the act specifies that the amount due the Territory shall be retained by the treasurer of each county and paid from "the first moneys which may be returned by the collector". The various county treasurers and their securities are made liable for any losses which may accrue.

A brief study of these companion acts will convince the reader that they are still in a very real sense the basis of the present revenue system of Iowa. While many changes have been made to meet new conditions, the fundamental outlines of our revenue system have remained much the same. To make this point clear it is only necessary to recall the distinctive features of the acts. Taxes were levied by a county board of commissioners, assessed by a county assessor, and collected by a county collector and his deputies, a portion thereof being paid into the treasury of the Territory. From a fiscal standpoint the county was thus made the important unit of government by the first Legislative Assembly, and in the levy and collection of taxes it has so remained to the present time. While the county plan of assessment has been supplanted by that of the township or precinct, the county still has in charge the collection of taxes, and through its board of equalization exercises a certain supervision over assessment.

At the next session of the Legislative Assembly (1839-1840) an act was passed providing for the annual election of a county treasurer. It is made his duty "to receive all moneys due and accruing to the county, to pay and disburse the same on orders drawn by the board of county commissioners . . . and not otherwise".<sup>14</sup> In addition he is required to make an annual settlement of his accounts



with the board of county commissioners and to collect delinquent taxes.

By the provisions of an act approved January 14, 1840, important changes were made in the revenue system of the Territory.<sup>15</sup> The taxation of improvements on land had met with criticism from the actual settlers who held that such taxes did not fall on the non-residents who, it was claimed, were holding lands for purposes of speculation.<sup>16</sup> The sentiment against this form of speculation was strong enough to control the Legislative Assembly. Accordingly, an act was passed providing that assessment be made on the value of the land without taking into consideration the improvements thereon. The county commissioners were also given power to extend the time granted the collector for filing his report "to such period as they may deem requisite". That part of the earlier act which required the sheriff or collector to make his report on the first Monday in January was repealed, it being enacted in lieu thereof "that it shall be the duty of said sheriff or collector to pay over to the county treasurer the sums collected for taxes as fast as he shall receive the same". The assessor was given the power, when deemed necessary, to appoint a deputy assessor upon the approval of the county board.

In conclusion this important act contains a provision of special interest to the student of fiscal administration. If an assessor had reason to believe that any person was not making a true statement of his or her property subject to taxation, he was empowered at his discretion "to swear such person to give a true account of the quality and quantity of such property, according to the best of his or her knowledge and belief".<sup>17</sup> In case of refusal thus to testify the assessor had the authority to ascertain the amount of taxable property from the best information to be derived from other sources.<sup>18</sup>

The revenue system established by the first Legislative

Assembly and amended as above indicated soon proved, however, to be defective. Governor Robert Lucas in his third annual message called attention to the necessity of adopting a regular financial system for the Territory, and recommended the creation of such a system as would distribute the burdens and benefits of taxation "upon principles of exact justice to all."<sup>19</sup> A few days after this message was submitted the Auditor placed before the Legislative Assembly a very intelligent discussion of the subject of revenue reform. After referring to the many expenses not borne by the Federal government, he says: "It certainly cannot be deemed otherwise than correct policy to levy upon correct principles, a Territorial Tax, the burthen of which shall be equal upon all classes of citizens."<sup>20</sup>

Two important criticisms were made of the existing revenue law. First, it was held that the Territorial tax of five per cent, being levied on the gross tax receipts of the various counties, was "regulated entirely by the necessities of the respective counties", and was, therefore, not equally distributed. In some counties a heavy tax might be found necessary, while in others, a comparatively light tax would be sufficient for county purposes. The discussion of these provisions recalls to mind the method of "distribution by expenditures" now being advocated by a number of tax reformers. In the second place, it was claimed that many of the counties would not be able to pay the per cent of tax for Territorial purposes for the reason that county orders outstanding and receivable in payment of taxes were frequently greater in amount than the actual tax assessed. This the Auditor alleged could be remedied by levying a Territorial tax directly on property as such and requiring the same to be paid in money.<sup>21</sup>

In the act which passed the Legislative Assembly and was approved January 15, 1841, at least one important

change was made. The agitation in favor of a regular millage tax for the Territory resulted in the enactment of the provision: "that there shall hereafter be levied and collected on all taxable property within this Territory, one quarter mill's per cent. on the value thereof, for Territory purposes."<sup>22</sup> This meant the repeal of that part of the act of 1839 which set apart five per cent of the gross taxes levied in each county as revenue for the Territory. The change thus made has remained a permanent part of our fiscal system.

The agitation for reform, however, continued. While the rate of taxation was low in pioneer Iowa, it was frequently impossible to obtain ready cash, and the payment of a small tax was thus made a serious burden. An examination of early documents reveals this condition.<sup>23</sup> The Territorial Agent reported in 1841 that the only resources he had for continuing work on the Capitol consisted of notes given in payment for lots in Iowa City amounting to \$18,282.75. The excess of expenditures over receipts was \$4,385.60; and arrearages incurred on the Capitol amounted to \$5,214.91 in outstanding certificates and \$5,500 in loans.

In his report of December 1, 1842, the Territorial Agent again complains in terms more emphatic.<sup>24</sup> It was necessary to contract debts in anticipation of collections and to keep supplies on hand to meet daily wants because the scrip made payable to the bearer and based exclusively upon unsold lots in Iowa City would neither pass with the merchants for goods nor be received by the farmers for provisions.<sup>25</sup> The Agent refers to a draft of \$507 as "more than one half of the actual cash handled by me through the season". Governor John Chambers, speaking of a proposed Territorial tax for building a penitentiary, in his message of December 7, 1842, declares that "such a tax, in addition to the contributions demanded of them for indispensable county purposes, would operate with a degree of



severity which, it is feared, the Representatives of the States in Congress do not justly appreciate".<sup>26</sup> These details are mentioned in order to impress upon the reader the actual economic conditions existing in pioneer Iowa when the historical foundations of our present revenue system were being laid.

Early in January, 1843, the Legislative Assembly, in response to urgent public demands, began in earnest the work of redrafting the revenue laws. Mr. Hackleman of the Revision Committee introduced into the House of Representatives a bill for levying and collecting county and Territorial revenue. That the work of the Revision Committee was careless and imperfect is apparent from the content of the law itself and from editorials in *The Iowa Standard*. When the bill was introduced, an editorial appeared giving a digest of its chief provisions.<sup>27</sup> Among other provisions the gross amount of tax levied for the county and Territory was to be five mills — "one fourth mill for the use of the Territory". In other words the Territorial revenue was not to be a percentage of gross tax receipts, but was to be levied on a strict property basis. Land was valued at rates running from one dollar and twenty-five cents to eight dollars per acre. Finally, certain classes of personal property were to be assessed at a fixed arbitrary standard good for five years unless changed by the legislature.

The Revision Committee was searching for a proper method of determining the value of real estate and personal property. The problem seemed to puzzle them, as it has continued to puzzle all other legislative committees in Iowa since that time. Had the original bill passed, a rigid, arbitrary, and unjust scale of valuations would have been enacted into law. A second *Standard* editorial, appearing one week later, informs us that "the Revenue bill has been greatly modified in many particulars".<sup>28</sup>

Four distinct changes of vital importance are mentioned in the editorial. Taxable property is made to include money, capital of all descriptions, and also all descriptions of stock or corporation shares. The manner of valuing real estate is also entirely changed, lands being valued at rates proportioned to their proximity to navigable streams, water privileges, towns, villages, etc., and their intrinsic worth in other respects and not by an arbitrary scale of valuations as previously proposed. Again all personal property is made taxable at its value in cash. Finally, it was provided that collectors should receive two dollars per day instead of a percentage. With these changes the bill was placed in the hands of a select committee, with instructions "to amend in such manner that 'it shall establish the principle of assessing all real and personal property at what it shall be worth in cash, including the improvements on claim land, to be assessed as personal property.'"<sup>29</sup>

But few changes were made by the select committee in the act as approved February 13, 1843. Nevertheless, the law should be remembered especially for the change from a county assessor to township or precinct assessors. "At the time and place of holding township elections, for township officers, there shall be elected one assessor for each and every organized township, who shall be a qualified voter, whose term of office shall be one year", and in counties not organized into townships "there shall be one assessor elected in each election precinct".<sup>30</sup> Provision is also made for the appointment, when necessary, of a deputy assessor, whose appointment shall be approved by the township board of trustees.

The second point worthy of special attention is the method of valuation of taxable property. It is therein provided that "lands and all town lots shall be valued at their true value, in cash, with all the improvements thereon, by the present assessors . . . with two other persons of good

qualifications, to be appointed by the board of county commissioners . . . and when said appraisers are so appointed and qualified as aforesaid, it shall be their duty to attend with said assessor, on the second Monday in June next, at the county seat of said county, then and there to make said valuation as nearly equal as may be, which valuation, when examined and corrected by the board of county commissioners, shall be recorded in the clerk's office of said board, and remain as a fixed value for five years".<sup>31</sup> Again, it is specified that all personal property shall be taxed according to its true value in cash, as determined by the assessor.<sup>32</sup> Respecting the subject of property valuations it will be noted that the act itself is very different from the bill as originally drafted and reported.

The law further provides that appraisers are to receive two dollars a day, assessors the same compensation, and a collector the following fees for his services: five per cent on all taxes by him collected, except by distress, then ten per cent in addition, and on real estate sold, twenty-five cents for each certificate.<sup>33</sup> The collector is required to make monthly payments to the county treasurer and may arrange to receive taxes either in the respective townships and precincts or at the county seat.<sup>34</sup>

Regarding the subject of Territorial revenue the act is inconsistent and in fact contradictory in its terms. Section 51 provides a tax of one quarter mill on all taxable property for Territorial purposes,<sup>35</sup> while section 15 makes the rate half of a mill on the dollar.<sup>36</sup> Attention is called to this careless defect by an editorial in *The Iowa Standard*.<sup>37</sup>

An effort was made, however, to secure more cash for the Territorial treasury by prohibiting the receipt of warrants in lieu of money. To remedy the difficulties of obtaining money it was enacted that no collector "shall hereafter be allowed to purchase any warrant issued by the auditor, or any draft heretofore issued by the territorial treasurer



upon any county treasurer in this Territory, with a view of paying the same into the territorial treasury in lieu of money collected or received on account of the Territory".<sup>38</sup> In short, three important objects were accomplished by the act: first, a township system of assessment was established; second, a Territorial tax was levied on the basis of property in the respective counties; and finally, the payment of Territorial revenue in cash was required.

It is needless to say that this law was unpopular and unsatisfactory from the beginning. The people at once demanded its repeal. At the opening of the next session of the Legislative Assembly (1843-1844) an editorial appeared in *The Iowa Standard* condemning the measure.<sup>39</sup> The Assembly at once took up the work of drafting a new law, and a bill relating to revenue was reported to the House from the Judiciary Committee.<sup>40</sup> A later issue of the *Standard* contains a lengthy discussion of the bill, in which reference is made to the "complicated and almost incomprehensible provisions" of the old law. "The bill now before us", says the writer, "is well drawn up, and is less than half the length of the present law"<sup>41</sup>—the truth of which is at once apparent from an examination of the law itself which is systematic, clear, and arranged in six logical subdivisions.

On the subject of property valuations the committee was divided. Some of the members held that all real and personal property should be assessed "*at the cash value thereof at the time of Assessment.*" The remainder took a different view, affirming that "All lands shall be valued at the true value thereof in ready money, taking into consideration the fertility and quality of the soil, the vicinity to roads, towns, villages and navigable waters; water privileges on the same, and all other local advantages, having no reference to improvements thereon'." <sup>42</sup> The measure as finally passed represented the views of both elements in the committee. The section relating to property valuations

provided that the "assessment shall be made at the cash value thereof at the time of assessment, taking into consideration the fertility and quality of the soil, the vicinity to roads, towns, villages, and navigable waters, water privileges on the same, and all other local advantages."<sup>43</sup> It would seem, however, that the difference between "the cash value thereof" and "the true value thereof in ready money" when reduced to its lowest terms was one of words rather than of revenue principles.

Aside from the general form and structure of the new act but few real changes were made from the old law which was so much condemned. The machinery and practical working of our revenue system were left essentially the same. The old law was stripped of much of its verbiage and a number of contradictory statements were eliminated. A few real changes, however, merit special attention. Personal property under mortgage was, for purposes of taxation, deemed to be the property of the party having possession.<sup>44</sup> It was further provided that "money at interest and stocks in any corporation or association, shall be deemed and taken to be personal property and shall be taxed at their true value."<sup>45</sup> Territorial orders or warrants were to be received for Territorial taxes; county orders, for county taxes; and township orders, warrants, or scrip, for township taxes. Such in brief was the act referred to by *The Iowa Standard* as "probably the best and most consistent act of the kind that has ever found a place upon our statute book".<sup>46</sup> Many unnecessary words had been removed, something definite had been enacted regarding the taxation of credits, and provision was made for receiving Territorial taxes either in cash or in Territorial orders or warrants — a rule also applied to the county and township. Finally, the township system of assessment was continued, a half mill was levied for Territorial revenue, and property was assessed at its cash value.

But the Territorial period continued to be one of agitation and change in fiscal affairs. A large element in the population had been accustomed to the county organization as a form of local government; and accordingly, they were opposed to a system of township or precinct assessors. It will be recalled that the early acts provided for a county assessor.<sup>47</sup> In 1843 the township or precinct system was established,<sup>48</sup> and in the following year it was confirmed by the Legislative Assembly.<sup>49</sup> This change in fiscal administration from the county to the township is indicative of the strife which existed in pioneer Iowa between the two forms of local government.

At the regular session of the Legislative Assembly which convened on May 5, 1845, the administration of the tax system was again considered and an act was passed providing for a return to the county plan of assessment. It was enacted that "there shall be elected on the first Monday of August in each year, by the qualified voters in each county in this Territory, one county Assessor who shall hold his office for the term of one year from the day of his election, and until his successor is duly elected and qualified, and shall perform all the duties that are or may hereafter be required of him by law", and when he "shall deem it necessary, he may appoint a deputy Assessor, to be approved of by the board of county commissioners."<sup>50</sup> A few months later, by the provisions of the last tax measure passed during the Territorial period, the duties of the county assessor were clearly defined.<sup>51</sup>

The history of taxation in Iowa during the Territorial period would be incomplete, however, without a brief reference to the long struggle for Statehood and the condition of the public mind which was disclosed by this contest. In his message of November 5, 1839, Governor Lucas said that the Territory "may, in my opinion, with propriety proceed to measures preparatory to the formation of a Constitu-



tion and State Government, and for our admission into the Union as an independent State".<sup>52</sup> This recommendation was taken up and considered by the Committee on Territorial Affairs, which reported that it was inexpedient to take any preparatory steps for admission into the Union "at the present session of the Legislative Assembly".<sup>53</sup> Moreover, the report contained these significant lines:

Your committee have also taken into consideration the subject of our Territorial expenses being now defrayed by the General Government, and our whole system of affairs both civil and military being sustained at little or no cost to the people — while on the other hand there is but one of two alternatives for defraying the expenses contingent upon our commencement of a State Government. The one an immediate contraction of a heavy public debt by negotiating loans from abroad, which must keep us long under embarrassment in our State affairs: The other an immediate assessment of heavy rates upon personal property, or a levy of a heavy poll tax upon individuals; which must render the new State Government burthensome as well as odious to the people.<sup>54</sup>

Agitation for Statehood continued. The question of calling a constitutional convention was submitted to the people in 1840 and again in 1842; but in each case the proposition was rejected by a decisive majority. The demand for Statehood was voiced by the *Iowa Capitol Reporter* in these words:

Who that has been absent from the Territory since he has resided in it, has not felt that he would rather hail as the citizen of *an Independent State*, than of a Territory *kept in leading strings by the Federal Government, and supported by its bounty?* And would not prefer paying a small additional tax for the maintainance of a State Government, *should it become necessary*, than subject himself to any such humiliation? <sup>55</sup>

Little was accomplished until 1844, when a vote was returned by the people in favor of State government. The first constitutional convention met at Iowa City in October,

1844. The constitution adopted by this convention was twice submitted to the people in 1845, and twice rejected by them. The debates of the Convention of 1844 are instructive along many lines of research, including the subject of taxation.<sup>56</sup>

When the subject of calling a convention was up for consideration the two Iowa City papers took opposite sides. *The Iowa Standard* maintained that "when the people had a fair opportunity of investigating the matter, they would never decide in favor of a State Government. Instead of receiving over \$60,000 they would have to pay over \$40,000. We could not reasonably calculate upon our government costing us less than that".<sup>57</sup> It was further estimated that the total expense of Des Moines County under Statehood would be \$9,706 as compared with only \$3,190 under the Territorial system — an increase of \$6,516.

In opposition to this statement the following able and instructive editorial, entitled *State Government*, appeared in the *Reporter*:

So far as the taxes are concerned, we very much doubt whether they would be any greater than they are at present.— Every one must be aware that has lived in the Territory for any length of time, that the laws for the collection of taxes are not so strictly enforced under a Territorial as under the State Governments.— True, in some few counties they may be, but as a general rule a rigid system of collecting the taxes, would soon lighten the burden of taxation in most of the counties of the Territory, and under a State organization this would inevitably be the case. All the officers under a State Government, being elected by the people, would be immediately accountable to them for a dereliction of duty; and the fear of the popular will would make the accounting officers require those whose duty it would be to collect the revenue to give a strict account of the manner in which they had performed the duty entrusted to them;—the consequence would be that the list of delinquent tax payers in the different counties would soon dwindle to little or nothing; and not be, as at present, in some of the counties nearly one half of the tax roll.<sup>58</sup>

The convention which was called began its labors at Iowa City in October, 1844. The argument of the increased financial burdens of Statehood was advanced with much force. *The Standard* declared that "the introduction of nearly \$100,000 annually into our Territory by the U. S. — being about \$1 for every man, woman, and child in the country — should not be hastily thrown aside; but on the contrary, should be allowed to flow in as long as possible. We complain that our taxes are already heavy and almost unbearable. Will this taxation become lighter by drawing on the robes of State sovereignty? . . . Now, if our fellow-citizens believe that they can pay \$50,000 annually without inflicting upon themselves serious injury, they will of course, adopt the constitution; but if, on the contrary, they conclude that it is better to receive \$80,000 than to pay out \$50,000, they will certainly continue their present form of government." <sup>59</sup>

The press of the Territory was much divided on the issue of the adoption of the Constitution; nor did the discussion follow party lines. Democratic and Whig politicians were active on both sides, although each accused the other of being enemies of the Constitution. It may be said, however, that the Whigs in the main were inclined to oppose and the Democrats to favor the Constitution. That efforts were made to make it a party issue is clear from the following:

We were not surprised to find in that most violent and reckless of the whig prints, the *Standard* of last week, a declaration in favor of remaining a territory, based upon the most short-sighted, narrow, penurious, and degrading arguments; and this, notwithstanding that during the canvass, it roundly denied our charge that the whig press and leaders were secret enemies of admission into the Union. <sup>60</sup>

The *Davenport Gazette*, the *Bloomington Herald*, the *Dubuque Transcript*, and the *Burlington Hawk-Eye* were disposed to criticism, if not to open opposition. The *Bur-*



*lington Gazette*, the *Territorial Gazette*, the *County Democrat*, and the *Iowa Capitol Reporter* favored the idea of Statehood. The second constitutional convention met at Iowa City in May, 1846. The constitution drafted by this convention was ratified by the people, and Iowa became a State on December 28, 1846.

In the light of this review of some of the leading facts in the history of taxation in Iowa from 1838 to 1846, the Territorial period may be defined as one of experiment and constant change in the tax laws. In almost every session of the eighth Legislative Assemblies a new patch was added to our revenue system, or at least some verbal changes were made in the laws. It was a period of tax legislation, not of thorough fiscal administration. Nevertheless, the general outlines of a revenue system, both local and central, were created and became the heritage of the State government.

The point to be especially noted by the student of taxation is that the revenue system from 1838 to 1846 can not be understood by simply mentioning the details of the statutes. Laws which look well on paper are frequently worthless in point of fact because they are not enforced. This was largely the case with the tax laws during the period under consideration. Complaints were frequently made of the delinquent tax list, the difficulty of obtaining the full quota of taxes from each county and, what logically follows, the high tax rate and the piling up of debts.

The practical working of the tax system and the condition of the treasury are revealed in the legislative and executive documents of the time. In his fourth annual message of May 5, 1845, Governor Chambers says that "the creation of demands against the Territory, for the payment of which the Treasury affords no means, under the expectation, (which may be disappointed,) that Congress will pro-

vide for them, is productive of great inconvenience to those to whom they are payable, and ought to be avoided.”<sup>61</sup> Seven months later in his message of December 3, 1845, Governor James Clarke recommends that “if possible, also, some measures should be adopted to ensure the more regular payment of the Territorial tax into the treasury by the county collectors, much delay and irregularity in this particular having heretofore prevailed.”<sup>62</sup> The Territorial Treasurer in his report of December 8, 1845, says that “Territorial Warrants are worth but fifty cents on the dollar — a depreciation that is scarcely to be found in any county in this Territory”,<sup>63</sup> and he recommends that the Territorial tax be increased to one mill on the dollar.<sup>64</sup> In the Auditor’s report of the same year the total amount of resources is found to be \$6,871.72, the amount of liabilities outstanding, \$17,650.60, or an excess of liabilities above resources amounting to \$10,778.88.<sup>65</sup>

Such were the fiscal conditions one year before Iowa was admitted as a State. In his second message of December 2, 1846, Governor Clarke says that “it cannot be denied that under the Territorial organization, with all our legislative, executive and judicial expenses borne by the General Government, a system of taxation exceeded for severity by but few of the States of the Union has prevailed. While these excessive levies have been submitted to, the necessity for their imposition has been denied. The time is believed to be at hand when the reform in this particular, looked for in vain for so long a period, is imperiously demanded by public opinion; and I confidently anticipate the adoption of such measures, by the Legislature, as will correct the evil in [the] future.”<sup>66</sup>

Thus the Territorial period closed with a fiscal system, which, according to the language of the chief executive, was unable to produce sufficient revenue to meet the limited demands incident to a Territorial form of government. Some-

thing definite, however, had been accomplished. Though the beginnings of our revenue system were necessarily crude, having evolved from the actual conditions of pioneer Iowa, the fact remains that real foundations were laid for future development.

What these foundations were must now be apparent to the critical reader. The period began with the county system of assessment.<sup>67</sup> In 1843 a change was made to the township system;<sup>68</sup> but before admission into the Union the county plan was reintroduced.<sup>69</sup> The basis of assessment also became a serious problem. Was property both personal and real to be valued according to arbitrary rules, or should it be assessed on the basis of true value or actual cash value? If so, how should such value be measured? In estimating the value of land, should improvements thereon be included or excluded? After much debate in the Legislative Assembly it was finally decided that property should be assessed at its cash value, taking into consideration certain factors definitely outlined by law, and that improvements on land should be included in the valuation for purposes of assessment. Again, it has been noted that the plan of apportioning Territorial revenue according to the gross tax receipts of the various counties was changed to the more equitable millage rate on property.

Finally, it should always be borne in mind that the county, judged from the standpoint of administration, was the real seat of fiscal authority, having in charge both the assessment of property and the levy and collection of taxes. Manifestly this authority, if exercised at all, could be diminished in only two ways. It could pass over to the State, on the one hand, or be absorbed by the lesser units of government on the other. To trace this development will be one of the instructive subjects of future chapters.



## II

### THE PERIOD OF THE FIRST CONSTITUTION 1846-1857

The Constitution under which Iowa was admitted into the Union provides that "all laws of a general nature shall have a uniform operation",<sup>70</sup> and that each house "shall have all other powers necessary for a branch of the General Assembly of a free and independent State."<sup>71</sup> Aside from these provisions there is almost nothing in the Constitution of 1846 affecting the general subject of taxation, the regulation of which was left to the people through their chosen representatives.

That the revenue system at the close of the Territorial period was defective and demanded reform, has been clearly pointed out in the foregoing chapter. If it had not been able to supply adequate revenue when all legislative, executive, and judicial expenses of the Territorial government were borne by the Federal government it would surely not be capable of meeting the larger demands of the State government.<sup>72</sup> Governor James Clarke, the retiring Territorial executive, stated that one of the most important subjects demanding legislation would be that of revenue for the support of the State. For the realization of a satisfactory system of State taxation temporary measures would not prove adequate. A permanent revenue system, the Governor declared, should be established and in fact was demanded by considerations of sound policy and the larger duties of Statehood.

Some of the facts which the Governor had in mind when he made his recommendations are disclosed by an examina-

tion of the reports of the Auditor and the Treasurer. In November, 1846, the Treasurer submitted a statement of finances <sup>73</sup> as follows:

1845. Amount in the Treasury, Dec. 10, 1845,.....	\$ 33.50
1846. Amount received since 10th Dec., 1845, and up to the 16th, Nov. 1846, from counties, .....	3,716.23
Total amount of receipts, .....	\$ 3,749.73
Disbursements from 10th Dec. 1845, to 16th Nov., 1846, .....	\$ 3,765.09
Excess of disbursements, .....	\$ 15.36

With so small a revenue and an excess of disbursements the fiscal outlook was, to say the least, not encouraging. But to make conditions worse, many counties were delinquent in the payment of taxes. A list of such counties is furnished in the Auditor's report. There it appears that for the fiscal year ending in November, 1846, the amount of delinquent taxes was \$8,167.50 as compared with a revenue for the same period of only \$3,716.23. In other words less than one-third of the Territorial revenue had been actually collected on account of careless and inefficient administration.<sup>74</sup>

But, while the Treasury was empty and the tax system weak and defective from the standpoint of administration, another and very different problem seemed to attract public attention — the problem of non-resident landholders and the taxation of improvements on land. The problem of developing adequate machinery for the collection of taxes was temporarily lost sight of in the popular mind through a discussion of "land monopoly" and non-resident speculators. It will be remembered that in 1839 an act was passed which prohibited the taxation of improvements on land.<sup>75</sup> This act was soon repealed because the majority held that it was contrary to the Organic Law of the Territory, which limited the legislative power by the words: "nor shall the

lands or other property of non-residents be taxed higher than the lands or other property of residents.”<sup>76</sup> This prohibition of the Organic Law, or at least apparent prohibition, tended to check the discussion of the exemption of the improvements on land during the Territorial period.

But when Iowa was admitted into the Union and the Constitution made the basis of government, a strong minority demanded the exemption of improvements on land and became very outspoken in the criticism of non-resident speculators. A second class of citizens, however, believed in ad valorem taxation; and they held that were all values taxed the burdens of taxation would be more equitably distributed and the rate correspondingly reduced. The whole problem was freely discussed during the closing weeks of the Territorial period and for a number of years after the Constitution was adopted.

Space will permit only a brief presentation of the arguments advanced. The *Bloomington Herald* was an advocate of exemption and published a strong series of articles relative thereto. On October 23, 1846, an editorial appeared giving an admirable summary of the claims of those who advocated the exemption of improvements. It was claimed that “non-residents who have had capital to spare have invested largely in Iowa land on speculation only”; that “the evil of the present system of land monopoly is multiform and ruinous in its effects upon the country”; that “it [land monopoly] prevents the dense settlement of the country, and interferes with the establishment of schools in neighborhoods by forcing settlers so far asunder that they cannot maintain teachers”; and that “it establishes the idea that every one has a *right* to make all the money he can off of the labor of others”.<sup>77</sup> The sturdy pioneers of Iowa did not propose to have their labor serve as the means of indirectly creating unearned increments for the benefit of non-residents who allowed their lands to lie vacant and



accumulate commercial value from the general development of the country. Such investments for speculative purposes only were regarded by the man of the frontier as savings banks wherein the deposits were necessarily made by the toil of actual settlers.

As a remedy for these evils it was proposed to place all the taxes on real estate, making no distinction save that for different grades of land. This proposed tax, which in a disguised form was in reality to be levied on the unearned increment of land, it was alleged, would place the non-resident on terms of equality with the resident. In reaching this conclusion the pioneer did not stop to formulate any definite theory of land values, still less of taxation. Those who opened up the Territory of Iowa were not men of fine distinctions, on the one hand, or of broad generalizations on the other. They were for the most part men of plain honesty and hard common sense. In thinking about this problem they came to the very obvious conclusion that improvements made on one piece of land not only enhanced the value of that land but also the farm across the road — and in fact all the land of the surrounding country. For this reason it seemed to them just and expedient to tax such enhanced value (unearned increment) of the farm across the road belonging to the non-resident and held for purposes of speculation, and thereby relieve the improvements created by their own labor. Such a fiscal program, in their judgment, was founded on considerations of both expediency and justice — just, because it meant the taxation of speculative or unearned value; and expedient, because it would encourage better and more beautiful improvements, open up all the land to actual settlers at reasonable prices, stimulate education, and in fact promote the general progress and prosperity of the country.

The same general line of arguments were repeated and enlarged upon in later articles in *The Bloomington Herald*.

For example, it was declared that "the present system of Taxes in the State of Iowa is incompatible with the rights, equality, and progress of the many. . . . No folly can be more blind, no madness can be more ruinous, than the policy of taxing the improvements of the country for the benefit of the Land Speculators — men who simply invest the surplus of overgrown fortunes in the soil of a country for the most unjust purpose of accumulating wealth at the expense of the industrious classes — those classes who make the country all that it is, or can be." <sup>78</sup>

An especially strong and clear statement was made in a communication signed "Plowman". "This, then," Plowman writes, "strikes at the *very root of Equality of Rights*, and tends most effectually to make the *rich richer* and the *poor poorer*, and confers an exclusive privilege upon the speculating monopolist, directly at variance with the fundamental principles of the institutions of our country."

"I rejoice", continues Plowman, "that the subject of taxation is being presented to the citizens of our infant State . . . . I am opposed to *monopolies*, of *all sorts*, *more especially* to monopolizing the public domain, or lands, and I hope our Representatives who are soon to convene in General Assembly, will early take this subject into consideration, irrespective of partizan considerations, and pass such laws as will secure Equal and Exact Justice to all the citizens of our infant State." <sup>79</sup>

In these later days, when so much is heard of the various forms of monopoly, it is interesting to learn that to the first settlers of Iowa the question of "land monopoly" presented a real danger. Fortunately, in the case of agricultural land, these fears have not been realized; but the whole subject is none the less instructive from the standpoint of the social and industrial history of the State.

On the other hand the advocates of the so-called *ad valorem* system of taxation were not without arguments. To

exempt so large an amount of property, it was claimed, would vitiate every principle of equality of taxation. Again, if the United States owned the land held by non-residents no taxes would be received from it. In another communication signed "Chips", appearing in *The Bloomington Herald* two weeks later, it was said that "the question at issue is — shall we levy a higher tax upon land in consequence of its being owned by non-residents, than upon other property. . . . When we break this rule of equal taxation, it leads to incalculable and endless difficulties. If it be so great an evil as to require the interposition of law, the government should not sell to non-residents, but let all the lands be entered by preëmption."<sup>80</sup>

In reply to "Chips" the opposition, advocating the exemption of the improvements, became more extreme in their denunciation of non-resident landholders. The creation of a land monopoly was again made the point of attack. "The greatest curse that can befall any country," said one writer, "is the monopoly of land. Other monopolies have, comparatively, but an ephemeral existence — but Land Monopoly extends from generation to generation,—from century to century — and its stringent evils are the curse of ages."<sup>81</sup> Obviously these views were extreme; but they indicate the temper of the early settlers of this Commonwealth.

On January 2, 1847, while the first General Assembly was in session a convention of citizens of Muscatine County passed a number of resolutions in which it was declared "that the value of improvements on such lands or town lots should not be included in the assessments unless it should be for corporation purposes in towns."<sup>82</sup> These resolutions were presented to the General Assembly, and contain a complete resumé of the subject under consideration.<sup>83</sup> The idea of social or unearned value was clearly stated and the principle of allowing it to go untaxed vigorously con-



demned. Were it not for the labor of the settler and the protection afforded by the government supported by him, it was alleged, such value would not exist; therefore, what could be more obvious or just than that in formulating a scheme of taxation "the Legislature should aim to secure an equality of its burdens, proportioning the same to the benefits which the non-resident receives from the labor of the resident, as well as what each receives on the score of protection from the government."

In the new revenue measure as approved February 25, 1847, these demands were not granted: the views of the party favoring what was termed *ad valorem* taxation prevailed. Among other provisions of the act, each person is required to give in to the assessor "all town lots or lands with improvements thereon."<sup>84</sup> The property liable to taxation was also made to include "every annuity, together with all moneys invested in property, of any kind, and secured by deed, mortgage, or other evidence of claim: *Provided*, That each person giving in his list may deduct from the amount of money due him at interest the amount which he may owe, and on which he pays interest, so as to pay taxes only on the excess. The valuation of the property shall be its real worth in money, and not what it would bring at auction or a forced sale."<sup>85</sup>

It is significant that by the terms of the same act which rejected the plan of exempting improvements, provision was definitely made for the deduction of just debts from the amount of credits listed for taxation. The meaning of this is clear. The actual settler after all his agitation, speeches, and editorials was not only compelled to pay taxes on his land and improvements but was granted no deduction from the assessed valuation of the same. All tangible property, the law declared, must be assessed in order to realize what was supposed to be an equitable plan of *ad valorem* taxation. On the other hand, the money loaner who held mort-

gages against such land and improvements was permitted to make a deduction of just debts. To some minds the handwriting on the wall was evident. It should not be forgotten that even in pioneer Iowa the capitalist had something to do with determining the course of "practical legislation".

The reader will recall that, under the provisions of the act approved January 24, 1839, the sheriff was made collector of county taxes — a position later occupied by the county treasurer.<sup>86</sup> In the act under consideration it was provided that the sheriff be made the ex-officio assessor and the recorder the ex-officio treasurer of the county.<sup>87</sup> During the early years of the government there seemed to be no settled policy regarding the officials charged with the administration of the fiscal system. The salary of the assessor was reduced to one dollar a day, but he was still given the privilege of appointing a deputy when necessary "to be approved by the Board of Commissioners."<sup>88</sup> It was further provided that "partners in mercantile or other business may be jointly taxed under their partnership name, for all capital, personal and real property, employed in such business; and in case of being so jointly taxed, each partner shall be liable for the whole tax."<sup>89</sup>

Regarding the inefficient collection of State revenue from the counties, about which so much complaint had been made, the act, now being considered, represents little if any real improvement. It was stipulated that "one half of the State revenue shall be paid in cash and the remainder in cash or Auditor's warrants", and the treasurer of each county "shall pay into the State Treasury the amount of money collected by him, on or before the 15th day of February of each year."<sup>90</sup> There is nothing definite or compulsory in these provisions, the State Treasurer not being clothed with power to compel the county treasurers to pay their full quota of State tax.

From the standpoint of tax administration the same defect continued to prevail. In fact, almost nothing was done to clothe the State with any real fiscal authority. The few administrative duties it had to perform were perfunctory and not vital.

Two years later a more definite step was taken along this line. An act was passed providing that "it shall be the duty of the clerks of the boards of county commissioners, assessors and prosecuting attorneys, of the several counties, to furnish such information in reference to the State revenue as shall be required by the Auditor of State, and a failure by any such officers, to furnish the information, if in their possession, as required by the Auditor of State, shall be liable to a fine of twenty-five dollars, which shall be collected by an action of debt in the name of the State, before any competent tribunal, and the boards of county commissioners shall make such compensation for said services as they may deem just and reasonable."<sup>91</sup> In this measure is noted the first serious effort to correct the evil of lax administration.

The next changes in our revenue system came with the *Code of 1851*. In his biennial message of December 3, 1850, Governor Ansel Briggs makes only a brief statement regarding taxation. "The assessment of 1850", he says, "shows an increase of the revenue from taxable property within the State, of \$20,409.28. Should the revenue continue to increase in the same proportion, we may reasonably expect that our State will, in a few years, be freed from all incumbrances."<sup>92</sup>

The Governor, however, directs our attention to the Auditor's report, which is definite and comprehensive in its scope and worthy of careful study. The Auditor complains that some of the counties are in arrears to a large amount, and points out specific counties where the assessment had actually decreased when it was obvious that the actual



amount of property had been greatly augmented. The low assessment of moneys and credits receives special attention.<sup>93</sup> Some of the older counties, he states, make no report of moneys and credits.<sup>94</sup>

“It will be observed, from the foregoing statement,” continues the Auditor, “that some of the counties are in arrears to a large amount, which will be reduced the present month, in all probability, several thousand dollars; still there will be a considerable sum unpaid, which is of long standing, and ought to have been liquidated years ago, and every exertion has been used on my part to bring about such a result. In some cases I have succeeded, but in others I have been unable to bring prosecution against the delinquents from a defect in our system.

“Our Prosecuting Attorneys are the legal officers of the counties and of the county officers, and cannot be employed by the State against them, yet our law seems to indicate that they shall act for the State when called upon. The State should have an Attorney General, to bring suits in all cases in which the State is interested, and to give legal advice to the State officers when necessary; by this means the State’s interest would be more carefully guarded, and delinquents would know that they could be made accountable.

“It is useless to levy a uniform tax throughout the State, if a portion can pay or not, as they please. It is believed that an efficient and punctual set of collectors can collect and pay into the Treasury nearly every dollar of tax levied. It is done in some few of the counties, and if it can be done by a little extra exertion in some, it can be done much better than it has been in others.

“Our system of collecting is very imperfect, and it is desirable that the present session will not pass without something better being adopted. A prompt collection and payment of the revenue into the Treasury, would enable the State to meet all her liabilities at the per cent. now levied,

and it would be but a short time before we would reduce the levy to a much less amount.”<sup>95</sup>

The subject of non-resident landholders and the taxation of improvements on land again came up at this time in connection with the granting of a new charter to the city of Muscatine. Under the old act of incorporation a large amount of improvements had been exempt from bearing a share of the public burdens.<sup>96</sup> An effort was made to continue this exemption under the new charter. A communication appearing in the *Iowa Democratic Enquirer* signed “B” contains a statement of the subject quite similar to that already presented. The article is filled with much sentiment and some eloquence. Among other things the writer says that “labor is the oil by which our state light burns; and that labor should not be discouraged by legislation. Not that we do not want capital — we need it badly — but not to be locked up in land or lots to the exclusion of productive immigrants. Thus far the most improvement has been made by those that had the least money — often on bor[r]owed money at high interest, what none but a hopeful and energetic people, determined to have a home of their own could stand. As a remedy, in the absence of better, I would say, exempt from taxation all improvement on land and lots, where the aggregate value of the buildings, fencing, &c., does not exceed one thousand dollars in value. And when the improvement amounts to more than the sum named, tax the excess only, and throw the tax mainly on land or lots in their naked state.”<sup>97</sup>

This was by no means the only plan of reform. A petition was circulated in the city of Muscatine favoring the ad valorem system of taxation, and this was presented to the local representative in the General Assembly. It has already been noted that this system as it was then understood and advocated was supposed to guarantee the equal taxation of all forms of taxable property. A third class

maintained that personal property should pay one-fourth of one per cent upon its value; that ground or lots should pay an amount not exceeding two per cent upon their value; and that improvements upon real estate, houses, stores, etc., should be entirely exempt from taxation.<sup>98</sup>

Other plans of fiscal reform were also being advanced. At a public meeting held soon after the above petition was circulated, the ad valorem system was repudiated by a large majority. It appears, however, that the two leading parties were quite equally divided — if so many reform elements with as many indefinite programs can be classified into parties.

The views of the party opposed to exempting improvements were clearly stated in an article by "Justicia", who says that there had been assessed in Muscatine about \$200,000 worth of personal property and \$300,000 worth of lots making a total of \$500,000 upon which a levy of one per cent had been made. He further estimates that \$400,000 worth of improvements on buildings had been entirely exempted from taxation. "Thus it will be seen, that, out of \$900,000 worth of property, there are \$400,000, or nearly one-half the entire amount which pays no tax. The consequence is, that a tax of one per cent. must be levied on the \$500,000 in order to raise the amount of tax necessary, whereas, if the whole amount was taxed one-half per cent., or thereabouts would be sufficient to raise the amount of tax required."<sup>99</sup>

Finally, it was maintained that the act admitting Iowa and Florida into the Union prohibited discrimination against non-resident landholders such as had been practiced in the city of Muscatine under the old act of incorporation. The act of Congress referred to provided that "in no case shall non-resident proprietors be taxed higher than residents".<sup>100</sup>

By the provisions of "An Act to incorporate the City of Muscatine" (formerly the town of Muscatine and earlier the town of Bloomington), improvements on real property



are declared taxable. The friends of ad valorem taxation had a majority in the General Assembly; and placed the following clause in the charter: "The city council is further authorized to levy and collect taxes not exceeding one-half of one per cent. on the value of all property within the city which is liable for state and county taxes, including improvements on real property."<sup>101</sup> An editorial in the *Iowa Democratic Enquirer* entitled "The Charter of Muscatine" commends the action of the General Assembly, declaring that "by the charter we are allowed the control of the Ferry, but the discretion to exempt improvements on lots is denied, as we always believed it would be; . . . Property is the proper basis of taxation, no matter in what it consists; and you cannot make discriminations without favoring one class and oppressing another. . . . The argument in favor of discriminating taxation, based on the selfishness of non-resident lot owners, is one which has never had weight with us."<sup>102</sup>

Thus in the long controversy concerning non-resident speculators and the taxation of the improvements on land some of the basic elements of our revenue system were considered and firmly established in law. All tangible property including improvements, save that specifically exempted by statute, was to be taxed, no deduction for debts being granted. Provision was made, however, for the deduction of just debts from the amount of moneys and credits listed for taxation. And finally, the plan of taxing the unearned increment resulting from improvements was rejected.

The new *Code of 1851* which was approved by the General Assembly on February 5, 1851, provided for the most complete machinery for levying and collecting taxes (especially State taxes) which had been evolved up to that time. Among other important changes a more logical and detailed classification of taxable property and also of property ex-

empt from taxation was made; and for the first time the State had in the Census Board a central body clothed with some authority for the correction of assessments and the equalization of taxes. The chapter on *Revenue* contains these logical subdivisions: rate of tax, State, county, and local, fixed by law; property exempt from taxation; taxable property; by whom, where, and in what manner property is listed and assessed; the assessment roll; the tax list; and finally, the collection of taxes. This classification, which was the result of twelve years of almost constant agitation and change, afforded something approaching a logical system. The fiscal machinery therein provided may be briefly defined under the headings of levy, assessment, equalization, and collection of taxes.

At the outset it should be noted that the levy was no longer made by the board of county commissioners but by the county court at a session held for that purpose on the fourth Monday of July annually. The rate was fixed by this court within the following specified limitations: for State revenue, three mills on the dollar, where no rate was directed by the Census Board; for ordinary county revenue, including the support of the poor, not more than six mills on a dollar and a poll tax of fifty cents; for the support of schools, not less than one-half mill nor more than one mill and a half on a dollar; for roads and bridges, not less than one nor more than three mills on the dollar on the amount of county assessment, unless a higher rate was established by a vote of the people of the county upon the question being submitted to them in the usual manner.<sup>103</sup>

The levy was made on all taxable property as follows: "lands, and lots in towns, including lands bought from the United States and from this state, and whether bought on a credit or otherwise; ferry franchises, which for the purposes of this chapter are to be considered as real property; horses and neat cattle; mules and asses; sheep and swine; money,

whether in possession or on deposit and including bank bills; money, property, or labor due from solvent debtors on contract or on judgment, and whether within this state or not; mortgages and other like securities, and accounts bearing interest; stock or shares in any bank or company incorporated or otherwise, and whether incorporated by this or any other state, and whether situate in this state or not; public stock, or loans; household furniture, including gold and silver plate, musical instruments, watches, and jewelry; private libraries for their value over one hundred dollars; pleasure carriages, stages, hacks, and other vehicles for transporting passengers, wagons, carts, drays, sleds, and every other description of vehicle or carriage; boats and vessels of every description wherever registered or licensed and whether navigating the waters of this state or not, if owned either wholly or in part by persons who are inhabitants of this state; annuities, but not including pensions from the United States or any of them, nor salaries or payments expected for services to be rendered. And all other property not above exempted although not herein specified."<sup>104</sup>

The term "credit" is defined; corporations are to be taxed on the shares of the stockholders; and insurance companies are to be taxed on the amount of the premiums taken by them during the year previous to the listing. And it is further stipulated that any person is entitled to deduct all bona fide debts owing by him from the gross amount of his moneys and credits.<sup>105</sup> In addition, it is provided that in listing his property for taxation the merchant "shall take the average value of such property in his possession or control during the year next previous to the time of the listing."<sup>106</sup> A manufacturer is to list his property in the same manner.

The work of assessment remained in the hands of the sheriff, who was given power to appoint an assistant as-



essor.<sup>107</sup> It was made the duty of the Census Board to furnish blank forms to the assessors before the first of March annually, together with "such instructions as to secure full and uniform assessments and returns".<sup>108</sup> The assessor was required to leave with all taxpayers these blank forms, which were to be filled out and returned by the twentieth day of March. After the blank was filled out, the person listing was required to sign the same and take an oath that he had to the best of his knowledge listed all his property required by law to be listed.

On or before the first day of June annually the assessor delivered the completed assessment roll to the county judge. That the work of accurate assessment might be doubly secure, in addition to the oath taken by the person listing, the assessor himself was required to swear "that in no case have I knowingly omitted to demand of any person of whom I was required to make it a statement of the amount and the value of his property which he was required by law to list, nor in any way connived at any violation or evasion of any of the requirements of the law in relation to the assessment of property for taxation."<sup>109</sup>

The work of assessment is always logically followed by that of equalization which, as stipulated in the *Code of 1851*, is an improvement over the old system. The first step in this work is made by the county judge, clerk, and treasurer, who were made to constitute a board for the correction of the assessment roll, and who between the first day of June and the second Monday in July, were to act as a county board of equalization.<sup>110</sup> The work of State equalization was placed in the hands of the Census Board — composed of the Governor, Treasurer, Auditor and Secretary of State, or any three of them.<sup>111</sup> The duties of this board relative to the equalization of assessment are thus outlined:

"The census board constitutes a board for the equalization of taxes for the state, and is authorized and required to

examine the various assessments so far as regards the state tax and equalize the rate of assessment on real estate in the different counties whenever they are satisfied that the scale of valuation has not been adjusted with reasonable uniformity by the different assessors.

“Such equalization may be made either by changing any of the assessments or by varying the rate of taxation in any of the counties as may be found most convenient, but in either case the board is directed to preserve unchanged as far as practicable what would have been the aggregate amount of valuation had no such equalization been made.”<sup>112</sup>

With county and State equalization completed, it becomes the duty of the Auditor of State to transmit to the judge of each county a statement of the change (if any) which has been made in the assessment and the rate of State tax which is to be levied and collected within his county. The assessment roll thus corrected, equalized, and transmitted is made the basis for the collection of taxes.

The county treasurer (who was also recorder) after receiving the tax list and warrant is required to be at his office during the months of September, October, November, and December to receive taxes. He is further required to collect delinquent taxes, as far as practicable. Auditor's warrants are made receivable for three-fourths of the amount payable into the State treasury; county warrants are receivable at the treasury of the proper county for county revenue; but actual money must be paid for the school tax. When taxes become delinquent they are made to draw interest at the rate of twenty-five per cent per annum. The provisions relative to delinquent taxes are more clear and definite than under the old laws. The purchaser is protected by receiving a deed which “shall run in the name of the state of Iowa and be signed by the treasurer in his official name and will convey the title to the land and shall be presumptive evidence of the regularity of all prior proceedings.”<sup>113</sup>



The system of taxation outlined in the *Code of 1851*, embracing as it did a plan of county assessment and collection, a combination of State and local levy made within certain well defined statutory limitations, and finally a dual scheme of local and central equalization, forms a close approximation to the revenue laws now in force. When we add to this the evolution of specific methods of taxing insurance companies and certain other corporations, it appears that more than half a century ago something like a modern system of taxation was being created — that is to say, it was about as modern as anything that has thus far been developed in Iowa.

The *Code of 1851* did represent a long step in advance — especially from the standpoint of fiscal administration. The complaints that had been made for years concerning delinquent taxes at last bore some fruit. The question at once arises, what is the secret of the more efficient administration that followed? Why were State taxes collected with more success? In the reply to these queries one discovers the essence of the revenue provisions of the *Code of 1851*. The State was clothed with more fiscal authority. The fiscal center of gravity was moved one step away from the county, and therefore one step nearer the State. We should remember, however, that it was only a step in this direction, since the transfer of power from county to State was in the main nominal, that it was largely a transfer on paper as will be disclosed in later pages.

Following the enactment of the *Code of 1851* the condition of the State treasury was rapidly improved. In his message of December 7, 1852, Governor Stephen Hempstead estimated that in the coming biennial period there would be “a balance of receipts over expenditures, fully sufficient to extinguish all that part of the funded debt of the State, which is payable at option”.<sup>114</sup> The Auditor also makes an encouraging report, saying that “the present prosperous con-



dition of our financial affairs, and the promptness with which the revenue is collected and paid over under the present law, admonishes that but few, if any alterations are necessary or called for.”<sup>115</sup>

Changes of much importance were, however, made by the General Assembly. By an act approved January 22, 1853, a system of township assessors was reestablished, to take the place of the county assessor. Such township assessors were to be elected annually on the first Monday in April and must give bond to the township trustees or, in counties not organized into townships, to the county judge. They were further required to meet at the office of the county judge on the third Monday of April annually and classify the several descriptions of property to be assessed, and to meet also at the same place on the first Monday in July in each year and in conjunction with the county judge form a county board for the equalization of assessments.<sup>116</sup> Finally, the act stipulates that in January and September of each year county treasurers shall pay into the State treasury all moneys in their hands belonging to the State, except when otherwise directed by the Auditor of State.<sup>117</sup>

But the system of township assessment was destined to be short lived. In his report of November 1, 1854, the Auditor submitted that “the only alteration in the present revenue law, which it is deemed advisable or necessary to make, is from the present system of township to county assessors. The experience of the past two years, it is thought has proved the latter to be best, as being more likely to ensure uniformity and correctness in the assessments.”<sup>118</sup> Governor Stephen Hempstead made a similar recommendation.

“At the last session of the General Assembly,” he said, “it was thought advisable to so amend the revenue law, as to require the assessment of taxable property to be made by a township instead of a county officer. This system, as I

have been informed, has proven much more expensive than the former one, and leads to errors and inequalities which have been injurious to the public revenue, and unjust to individuals."

"To secure uniformity in the assessment of property," continued the Governor, "and remedy, as far as practicable, the evils complained of, I would recommend that the present law be so amended as to require the election of a county assessor for each county, with such other regulations as may be thought necessary to secure a faithful discharge of his duty."<sup>119</sup>

The new act as approved January 28, 1857, again returned to the former system of county assessment. According to its provisions the assessor was to be elected for two years, holding his office until his successor was duly elected and qualified.<sup>120</sup> One or more deputies might be appointed by the county judge under certain conditions, provided, "that no deputy shall be appointed where the population of the county shall not exceed ten thousand, except in case of vacancy or inability of the assessor to act."<sup>121</sup> The Census Board was retained as a State Board of Equalization, being required to meet at the seat of government on the first Monday of September, 1857, and every two years thereafter for the purpose of equalizing the valuation of real property among the several counties and towns in the State.

The period which closed with the adoption of the second constitution in 1857 was an important one in the history of Iowa taxation. It was essentially a period of transition on the one hand, and of origins on the other. A revenue system capable of meeting the demands of independent Statehood had to be created. How the administration of this system should be distributed between the various units of government had to be determined. Should fiscal authority be placed with the township, the county, or the State was

one of the leading questions before the General Assembly.

Like the Territorial period, the decade following admission into the Union began and closed with county assessment, the sheriff being the ex-officio assessor. In the meantime, however, the township system was re-introduced (1853) and continued until the session of 1856-1857. During this period the correction of county assessment was in the hands of a board composed of the county judge and the township assessors. Formerly this same work had been done by the county board of supervisors and later by a county board composed of the county judge, clerk and treasurer — a fact in itself indicative of the rapid transition then taking place in our financial administration. While these changes were going on in the effort to secure a balance of fiscal authority as between the local units of government an important step in the way of centralization was taken by the creation of a regular state board of equalization — the Census Board.

A second problem which received much attention, especially from tax officials, during the years from 1846 to 1857 was that of delinquent taxes. It was discussed in the documents of 1846, and after numerous efforts to tighten the fiscal bond between the State and the counties the same complaints were again made in 1857. The problem of efficient collection of the State revenue remained to be solved.

Finally, the agitation concerning non-resident speculators resulted in two definite and very opposite types of legislation: first, an ad valorem scheme of taxation framed so as to include improvements on land; and second, the principle of deducting just debts from the amount of monies and credits listed for taxation. On the one hand, the actual settlers, or debtor class, were not only compelled to pay taxes on their improvements but were denied the privilege of deducting debts from the value of their real estate. On the other hand, the non-resident was merely re-



quired to pay taxes on the value of his unimproved land as such, and the creditor class as a whole was given the right to deduct debts from the amount of moneys and credits listed for taxation. The proper basis of taxation, tax exemptions, land monopoly, the economic rights of non-residents, the taxation of moneys and credits and other allied questions were all a part of the great fiscal problem then under consideration.

Thus more than sixty years ago the underlying principles of taxation in their relation to improvements on land and the status of moneys and credits were thoroughly debated, and the arguments then presented are similar to those advanced at the present time. From the standpoint of fiscal administration, both State and local, the equalization of assessments, specific methods of taxation, the listing of moneys and credits, etc., there is outlined in the *Code of 1851* a revenue system about as modern as any that has thus far been developed by the General Assembly of Iowa.

### III

#### ADMINISTRATIVE DECENTRALIZATION

1857-1872

The Constitution of Iowa as ratified in August, 1857, contains a number of important provisions relating to the exercise of the taxing power. In this respect it is more detailed and specific than the Constitution of 1846.<sup>122</sup> The provision that "all laws of a general nature shall have a uniform operation",<sup>123</sup> which is taken from the earlier document, has always been construed to cover the taxing power. It is further provided by the Constitution that "the General Assembly shall not pass local or special laws . . . for the assessment and collection of taxes for State, County, or road purposes".<sup>123</sup> This section, which is in reality a negative statement of the proposition that laws of a general nature shall have a uniform operation, has had an important bearing upon the judicial construction of our revenue system. The prohibition against enacting local and special tax laws is another way of affirming that such laws should be general in scope and therefore uniform in operation.

But the clause of the Constitution of 1857 most frequently quoted in judicial opinions, and the one which has had the greatest influence on the history of taxation in Iowa, is the section which provides that "the property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals."<sup>125</sup> Frequent reference will be made to this important constitutional limitation on the taxing power, which is always advanced and frequently misunderstood.

Other provisions of the Constitution of 1857 limit the power of a county or other political or municipal corporation in contracting debts to an amount in the aggregate not "exceeding five per centum on the value of the taxable property within such county or corporation".<sup>126</sup> Again "the credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual association, or corporation".<sup>127</sup> Nor shall the State contract debts in excess of two hundred and fifty thousand dollars.

It will be recalled that in discussing the provisions of the *Code of 1851* attention was called to the fact that the transfer of fiscal authority to the State was largely nominal.<sup>128</sup> The whole period of the first Constitution, as already suggested, had been one of transition and compromise. How were law-makers to strike a proper balance as between the township, county, and State in the administration of the public finance? This question had to be answered not only for the levy and collection of taxes but for that far more important and basic task, the assessment, including the equalization of property. In a word, if the county was to lose some of the fiscal power which it had received from the Territorial period, would this power be further centralized or would it be dissipated among the lesser units of government? Judged from the standpoint of administration this had been a vital question even before Iowa was admitted into the Union.

The term "Administrative Decentralization" clearly defines the dominant characteristic of that period of our revenue history now under consideration. While the exigencies of war and the strong hand of Governor Kirkwood developed a more efficient system for the collection of State taxes, the all important task of assessment, including equalization as between individual property holders, was soon to be transferred to hundreds of local units of government, each a law unto itself — being subject only to meaningless



ex-officio supervision — thus paving the way for the administrative failure of the general property tax. So strong was the sentiment of the time for decentralization that even Governor Kirkwood, was more than willing to test the experiment of township collection.

That the State was still powerless to collect all of its revenue is apparent from a study of numerous documents in the period now under consideration. The Auditor of State in his report for 1857 complains of delinquent taxes and depreciated warrants. Among other things he says that “one of the *greatest* discouragements with which this office has to contend is the slowness of County Treasurers in collecting and paying in the revenues due the State. I would not charge these difficulties entirely to that officer, for in many or most instances the Treasurers have used their best exertions in this behalf. On the other hand, some of the counties have been culpably negligent in making their semi-annual payments, on the 15th of January and September as required by law — the treasurers frequently holding in their hands large amounts — used, if used at all, in violation of law and duty, and thereby causing injury to the State in the loss of interest and credits, and to the holders of warrants in the sacrifices which they have to make in getting them cashed.”

“While this is true of but few, I trust,” continues the Auditor, “the main difficulty to prompt payment lies with the *tax-payer*. It is a matter of universal remark, that where money commands higher usury, than the interest which is affixed to delinquent taxes, tax payers will not pay till the *last moment*, and sometimes escape all together. The interest, too, which is chargeable upon delinquent taxes, is seldom collected — or if collected is not always and all of it reported to this office. To remedy this, is the duty of the Legislature.”<sup>129</sup>

He suggests also that the revenue laws be so amended

as to give non-residents the privilege of paying their taxes at the capital of the State. He thought that this plan, which was followed in some of the other States, if adopted in Iowa, would reduce the delinquent tax list — a good share of the delinquent taxes being found among non-resident taxpayers. Interesting also is his pertinent criticism that the revenue laws of the State were certainly confused and in many respects very defective, and that therefore legislation upon the subject should be the result of careful investigation and deliberation.<sup>130</sup>

In the second biennial message of Governor Grimes some valuable suggestions are made in regard to the revenue laws. It was the opinion of the Governor that the system should be wholly changed as far as it related to State taxes. The county treasurers were to some extent State officers, and in case of default the State could not recover, but was obliged to sustain the loss. The transactions of the State ought to be with the counties, not with county officials.<sup>131</sup> The amount of delinquent taxes, it was alleged, had reached the large sum of \$62,401.94 — a very small per cent of which would ever be recovered. The operation of such a system placed a premium on fraud and delinquency and was a serious injury to those counties that paid their share of the revenue promptly. The one remedy for this condition was more efficient administration, requiring the payment of the quota of the State by a fixed day under suitable penalties.

In regard to the merits of county versus township assessment, the Governor said: "It is much doubted whether the law of last session, substituting county for township assessor, was any improvement upon the former method of assessment. Judging from my own observation, I do not hesitate to conclude, that many millions of dollars worth of property was overlooked at the last assessment, and is this year untaxed. I recommend the old law, in this par-

ticular, to be restored. Sound policy requires that administration as well as legislation should be brought as directly home to people as possible. There must ultimately be a thorough township organization throughout the State, and the sooner the people become accustomed to it, the less difficult and burdensome it will become, and the more perfect and satisfactory will be the transaction of public affairs."<sup>132</sup>

This clear statement by the Governor reflects the public opinion of the time on the question of township government. "Administration as well as legislation" ought to be placed as much as possible directly in the hands of the people. Such was the trend of statesmanship in the decade from 1850 to 1860. The people of Iowa have been painfully slow in their efforts to differentiate between legislation and mere administration, and to unlearn the wasteful and unscientific lesson of decentralization in the case of the latter.

In the *Weekly Express and Herald* (Dubuque), the capital correspondent made some pertinent comments relative to the assessment of real estate, the work of the Census Board, and the proper distribution of State taxes. He claimed that real estate was greatly undervalued in many of the counties; that Dubuque County paid one-thirteenth of the State tax and had little more than one-thirtieth of the population of the whole State. Speaking of equalization he considered the Census Board to be nothing more than a farce, and held that something should be done to equalize taxes by legislative enactment. He said that to carry out this policy a bill had been introduced by a member of the Dubuque delegation which provided, first, that State taxes should be made a direct charge upon the counties in their corporate capacity, and second, that the taxes should be apportioned to the counties on the basis of their respective population.<sup>133</sup>

"An Act in relation to Revenues" was approved March 23, 1858.<sup>134</sup> A study of this measure makes it apparent that



some of the criticism noted above was heeded. While the revenue law as a whole was much the same as before, a few changes are worthy of attention. The effort to secure a valuation of real estate for the year 1858 was, however, not successful, it being provided that "real property shall be listed and valued in the year 1859 and each second year thereafter, and shall be assessed at its true value in money at private sale, having regard to its quality, location, natural advantages, the general improvement in the vicinity, and all other elements of its value. In each year in which real estate is not regularly assessed, it shall be the duty of the assessor to list and value any real property not included in the previous assessment."<sup>135</sup>

A permanent change was made in the machinery of assessment. The township system was for the third time re-introduced.<sup>136</sup> The assessor was to be elected annually and receive a compensation of two dollars for each day employed in the discharge of the duties of his office; and the several assessors of each county were required to meet at the office of the county judge on the second Monday of January and classify the property to be assessed for the purpose of equalizing such assessments. From the standpoint of administration the act of 1858 was perhaps the most important revenue law ever passed by the General Assembly of Iowa. It was, indeed, the fatal and decisive step toward fiscal decentralization which explains the administrative failure of general property taxation revealed in the two following chapters.

In order to prevent the duplicate assessment of real property, it was further stipulated in the act of 1858 that all the real property held by a taxpayer in any one county might be assessed in the township where he resided—the assessor of said township being required to furnish duplicates of realty owned in other townships. In order to complete the several township assessment books the sev-

eral assessors were required to meet at the county seat on the last Saturday of March in each year.<sup>137</sup> The powers of the county boards of equalization and the Census Board remain practically the same as under the former act.<sup>138</sup>

Other features of the act relate to the protection of county and State funds and define the fiscal relationship between the counties and the State. The recommendation that the counties and not the county officials be made responsible was noted above.<sup>139</sup> Following these recommendations it was enacted that each county should be made responsible to the State for the full amount of tax levied for State purposes, excepting amounts certified to be unavailable, together with double or erroneous assessments. In case any county treasurer proved to be a defaulter to any amount for State revenue, provision was made for making up said amount within the next three years, by additional levies in a manner to be directed by the county judge.<sup>140</sup>

Finally, in order to strengthen still further the machinery for the collection of State taxes and prevent so many cases of defaulting a rather unique provision was enacted. The State Treasurer was required to keep each distinct fund in a separate apartment of his safe, and at each quarterly settlement with the State Auditor it was provided that "he shall count each fund in the presence of the Auditor, to see if the same agrees with the balance found on the books. The total amount acknowledged to belong to each fund shall be exhibited before the count, and the County Treasurer shall account with the County Judge in like manner."<sup>141</sup>

The tendency to amend the revenue laws continued. In his report for 1859 the Auditor of State maintained that county clerks should be required to certify to his office the total amount of taxable property as the same appeared on their tax books when completed. Such a plan would prevent differences existing between his books and those

of the county officers. He also stated that the penalty for non-payment of taxes was not sufficiently heavy to secure promptness of payment for the reason that people frequently believed they could use their funds so as to lose nothing by paying the twenty-five per cent interest required by law. It is further alleged that the State tax levied in the counties for the year 1857 had varied from one and one-fourth to three mills on the dollar—a condition of affairs which should be remedied by legislation.<sup>142</sup>

The subject of delinquent taxes and how to remedy the same was much discussed at this time. The uncertainty of tax titles was one of the chief causes of delinquency according to the *Iowa State Journal*. “Especially do non-residents pay little heed to the prompt payment of taxes, for it is understood that the whole legal fraternity hold themselves in readiness to insure the recovery of lands sold for taxes.”<sup>143</sup> The result was a loss to the counties and State of from ten to fifty per cent—the sum being measured by the large depreciation of county and State warrants. Many felt that the remedy for such a condition of affairs was to make tax titles more secure<sup>144</sup> by definitely providing that at the end of a certain period of years the fee simple be vested in the purchaser.

If additional proof is needed at this time to convince the reader that the administrative centralization of our revenue system secured by previous acts was largely verbal, he should read the able messages of Governor Kirkwood. These State papers are filled with practical wisdom along many lines, including the subject of taxation. The Governor recommended a law “requiring the Judge of each Judicial District, to appoint once in each year a skillful accountant in each county of his district, whose duty it shall be to examine carefully the books of each county officer, and to state and record an account between such officer and his county, and when necessary, between officer



and officer.”<sup>145</sup> When it is remembered that even at the present time only two or three States (Indiana and Washington now have such a law) provide for an efficient system of uniform public accounts, the statesmanship of Governor Kirkwood along this line will be duly appreciated.

The Governor complains of a vagueness of the laws which introduces among officials a laxity of morals highly dangerous to the public interest. Furthermore, he suggests “the propriety of a careful examination of our revenue system, with a view to ascertain if it cannot be made more certain and efficient. Any system of revenue which permits large amounts of taxes to become delinquent and to be ultimately lost to the State, must be defective, and must operate unjustly and unfairly upon our people. The deficiencies thus created in the revenue must be provided for by additional taxation upon those who have already discharged their duty as citizens, by paying the taxes assessed upon them, and they are thus compelled to bear more than their due proportion of the public burden. The laws should provide for the most rigid and exact accountability of all officers charged with the collection, control or disbursement of the public money.”<sup>146</sup>

The next important revenue act was passed April 3, 1860, and appears as Chapter 45 of the *Revision of 1860*.<sup>147</sup> This act was largely a reproduction of Chapter 152 of the *Laws of 1858*, with, however, a few amendments. The county board of supervisors, as provided for in an act approved March 22, 1860,<sup>148</sup> was given the power to levy taxes and also authorized to act as the county board of equalization. “The board of supervisors of each county,” reads the act, “shall constitute a board for the equalization of the assessment, and have power to equalize the assessments of the several persons and townships of the county, substantially in the same manner as is required of the state board of equalization to equalize among the several counties of the

state so far as applicable, at their regular meetings in June and next succeeding the general election in each and every year; and at such meetings they shall add to said assessment any taxable property in the county not included in the assessment as returned by the assessors, placing the same in the list of the proper township, and shall assess the value thereof."<sup>149</sup>

This amendment was in fact significant. The question was, should township and precinct assessors hold a meeting at the county seat and proceed to equalize the assessments made by themselves, or should this task be placed in the hands of a regular county board? The adherents of the township system of local government naturally advocated the former plan: those accustomed to the county plan of local government were inclined to favor the latter. The equalization of assessments by the county board of supervisors destined to be largely nominal, was, therefore, a point gained for the county system.

Complying with the recommendations of the Auditor, it was further enacted that the clerks of the county boards of supervisors be required to make out and transmit to the Auditor of State by mail or otherwise, an abstract of real property setting forth (1) the number of acres of land in his county, and the aggregate value of the same, exclusive of town lots, returned by the assessors, as corrected by the county board of equalization at their first meeting, (2) the aggregate value of real property in each town in the county, returned by the assessor as corrected at their first meeting by the county board of equalization, and (3) the aggregate value of personal property in his county.<sup>150</sup>

It is, however, from the standpoint of tax titles that the provisions of the *Revision of 1860* are especially important. The agitation for reform along this line for many years, followed by the strong recommendations of the Auditor of State and of Governor Kirkwood, resulted at last in fairly

specific legislation. Fully seven pages of the *Revision* deal with the sale of lands, town lots, etc., for unpaid taxes, and the deeds given in the event of such sale. Among other things it was provided that the tax title deed should be signed by the treasurer in his official capacity, and acknowledged in a legal way; and that when so executed and recorded, it should become "*prima facie* evidence in all courts of this state, in all controversies, and suits in relation to the rights of the purchaser, his heirs or assigns".<sup>151</sup>

But the problem of delinquent taxes was not solved by this legislation. Complaints again become frequent—especially after the outbreak of the war. The Auditor in his report for 1861 states that "the aggregate amount of delinquent taxes is yearly increasing", and he suggests that the penalty be increased and a uniform system of accounts be established.<sup>152</sup> Governor Kirkwood in his special message also regrets that the tax laws are not "sufficiently stringent to compel the prompt payment of taxes."<sup>153</sup>

It is, however, in the first biennial message of Governor Kirkwood that we find the most thorough and comprehensive treatment of the revenue system. Delinquent taxes, the elements of a good revenue system, the duty of the citizen to pay his taxes promptly, the relative importance of local as compared with State taxes, the necessity of careful administration and strict economy, these and many other important points receive careful consideration. From a table prepared by the Auditor of State the Governor informs us that, of the total tax of \$1,700,000 for 1861, only \$300,000 was expended from the State Treasury for State purposes, the remaining \$1,400,000 being expended for county and other purposes. In other words, of every \$5.66 paid by the people of the State as taxes only one dollar reached the State Treasury or was used for State purposes<sup>154</sup>—a fact which indicated the necessity of careful



economy in local as well as State finances. By rigid economy in both State and local expenditures it was suggested that the entire amount of the tax required by the general government for war purposes might be raised without increasing the rate of taxation.

Referring to the collection of State taxes from the counties, Governor Kirkwood further recommended that county treasurers be required to pay the whole sum at fixed times, whether they had received the entire amount of State tax or not. This he believed would stimulate county officials to a more strict performance of their duty. The law making each county liable to the State for the amount of tax assessed in it was declared to be useless because there was no means of enforcing it.<sup>155</sup> In this recommendation, it should be noted, the chief executive was again far in advance of his time. The fact is that the amount of State supervision of taxation outlined or at least suggested in the messages of this statesman has not yet been realized in Iowa and may not be for years to come. To appreciate the worth of the document under consideration from a fiscal standpoint, it is only necessary to read the following suggestions and recommendations:

But while this is true, it is equally true that our finances are not in a healthy condition. The Report of the Auditor of State discloses the somewhat startling fact that of the State tax for 1860 and preceding years, there was, at the date of his Report (the 4th day of November, 1861) delinquent and unpaid the large sum of about \$400,000 — a sum more than sufficient to cover the entire expenses of our State Government for one year. This large delinquency has occurred mainly within the last four years, and the same Report shows there were at the same date warrants drawn on the Treasury to the amount of \$103,645, which were unpaid for want of funds, most of which were drawing interest at the rate of eight per cent. per annum.

From these facts the following conclusions are inevitable: 1st,

That during the last four years there has been levied a State tax larger by about \$300,000 than the necessities of the State required. 2d, That this was rendered necessary by the fact that only a portion of our people paid the tax due the State. 3d, That the State has been compelled yearly to pay large sums by way of interest on warrants, which need not have been paid had the taxes been collected promptly, and the Treasury kept supplied with funds to meet all demands upon it. 4th, That the State being compelled to purchase its supplies with warrants has had to pay higher prices than if it had had the cash to pay. 5th, That the tax-paying portion of our people have thus been compelled to pay not only their proper share of the public burthens, but also the share of those who did not pay their taxes, increased by interest and high prices. These things should not be so. They reflect discredit not only on those of our citizens who seek to avoid their just share of those burdens which are imposed upon all for the benefit of all, but also upon the laws which permit them to do so with impunity. I, therefore, very earnestly recommend to your attention a careful examination of our revenue laws for the purpose of ascertaining if they can be made more effective in enforcing the prompt payment of taxes.

The leading features of a good revenue law, in my judgment, are: 1st, The imposition of such penalty for the non-payment of taxes when due, as will make it unmistakably the interest of every taxpayer to pay promptly. 2d, The assurance to the purchaser of property at a tax sale, of a valid title at the expiration of a fixed time. There is, in my opinion, much misapprehension in the minds of many persons on this subject. Some seem to think they receive no value for the money paid by them as taxes, and that they are, therefore, not culpable in avoiding payment if they can. Others, whilst they admit there is some kind of doubtful obligation upon them to pay their taxes, if convenient, yet insist that any stringency in the laws to compel payment would be unjust and oppressive, and that no greater penalty should be imposed for non-payment than the interest allowed by law between citizens. These are radical errors. Every citizen is protected by the State, in life, liberty, and property, in all he has, and all he may acquire; and in

all his honest efforts for further acquisition; and in return, he is bound as a good citizen, to render obedience to the laws; to pay promptly his share of the taxes necessary for the support of government; and, in time of war, if need be, to defend the government with his life. If he fails to perform either of these duties of a good citizen, he is liable to punishment, and the amount added to his taxes for failure of payment at the time fixed by law, is not the interest due upon a debt, but a fine or penalty for the non-performance of a duty. Nor can any one justly complain of this. Why should any one of our people claim that he should enjoy all the benefits of civil government and be exempt from its burthens; that he should have all these advantages at the expense of his neighbors?

It may be said that some are unable to pay their taxes. This, it seems to me is erroneous. The amount of tax each one has to pay is in proportion to the property he has, the greater the tax the greater the amount of property from which to raise means of payment. I am well convinced that taxes are paid most promptly by our farmers, and by men of comparatively small means, and that there are very few of us who do not spend yearly for articles of luxury which do not promote either our health, our prosperity, or our happiness, more than the sum required from us as taxes for the support of the government that protects us. The subject of revenue and taxation assumes a graver interest and importance at this time, for the reason that our State is called upon, for the first time since its admission, to pay a direct tax for the support of the General Government. We may expect to be called on to pay, during the present year, a Federal tax of from \$600,000 to \$700,000. This is rendered necessary by the heavy expenditures incurred by the General Government in preparing to put down the Rebellion in certain States of the Union. A resort to loans has been, and must continue to be, necessary to meet these expenses, and prudence and sound economy require that the General Government shall not be compelled to borrow money to pay the interest accruing upon its loans. The interest upon loans made, and to be made, must be met by actual payment, and not by incurring further indebtedness.<sup>156</sup>



Words like these require no comment or explanation. They have been quoted in full because they are thought to represent the clearest and most sane presentation of what a revenue system should be that can be found in all the documentary material and State papers dealing with the history of taxation in Iowa.

The legislative session of 1862 was a stormy and eventful one. The war was making extraordinary demands both on the Federal government and the loyal States. These demands had to be met in addition to the ordinary expenses of government. It required both money and men to preserve the Union. One of the first acts passed by the General Assembly provided for the payment of taxes in treasury demand notes issued by the authority of the general government, and the notes issued by the several branches of the State Bank of Iowa. A similar measure had been passed in other States. Much objection had been raised to the payment of taxes in coin. In a contemporary editorial the writer declares that "tax-payers are at the mercy of the brokers. In this anomalous crisis is it not the *duty* of the State to relax, somewhat, the rigidity of a financial rule which would be perhaps well enough in times of peaceful prosperity? Outside of Iowa, we are not aware of a State which requires *coin*, exclusively, of its people in payment of taxes."<sup>157</sup>

It soon became manifest that, if taxes were to be promptly paid, some other currency than gold must be provided. Would it not be wise to follow the policy already inaugurated by the general government? The act granting these demands was approved February 17, 1862. It authorized and required the county treasurer and State treasurer to receive United States demand notes and notes of the State Bank of Iowa and pay them out again in the redemption of outstanding warrants. But this rule was not to apply to the branches of the State Bank of Iowa after any

of the said branches had suspended specie payments.<sup>158</sup>

The second act of importance passed during this session was entitled "An Act for the assessment, levy and collection of the quota of this State, of the tax laid on the United States, by the act of Congress, approved August 5th, 1861, or any subsequent acts, and the payment of Auditors' warrants on the war and defense fund."<sup>159</sup> This bill brought forth considerable discussion in the General Assembly, chiefly concerning the question of rate. Some members thought that one mill was sufficient; others believed that one and one half mills would be required; and still others held that a two mill levy was absolutely necessary. Mr. Ainsworth favored the object of the bill, but considered that "the amount proposed to be raised was larger than necessary."<sup>160</sup> Mr. Dunlavy thought that one mill was enough. But Mr. Bowdoin spoke with much earnestness in favor of the two mills levy in order to keep up the credit of the State. Many other shades of opinion were expressed relative to the measure. The act as approved March 10, 1862, provided for a levy of two mills on the assessment of 1861. It was made the duty of county treasurers to enter the Federal tax in separate columns and proceed to collect it in the same manner as other taxes, and they were also required to give additional bonds.

Among the most interesting features of the session were the House income tax bill and the Senate reduction of salaries substitute. The question of income taxation was much discussed, and a measure providing for this form of tax passed the House but was defeated in the Senate.<sup>161</sup> A bill to change and fix the salaries of the judges of the Supreme Court and district courts and of certain State officers passed the General Assembly on April 7; but a veto was recorded with the Secretary of State by Governor Kirkwood on the ground that the measure was unconstitutional.<sup>162</sup>

The last important act relating to revenue passed by the Ninth General Assembly was an act amendatory of Chapter 45 of the *Revision of 1860*. By its provisions a few changes were effected. The boards of supervisors were required to levy annually the per cent of taxation of the Federal tax according to the provisions of the act outlined above. In addition to one township assessor in each township of the State, it was further provided that there should be elected in each city and incorporated town a separate city or town assessor. Where city or town assessors were thus elected, the township assessor was logically restricted in his duties "to the persons and property of his township exclusive of the territory of such city or incorporated town"<sup>163</sup> a provision which meant further decentralization of the important work of assessment. Finally, the clerk of the county board of supervisors was required to furnish the State Auditor (1) an abstract of the aggregate value and number of cattle, (2) the aggregate value and number of mules, (3) the aggregate value and number of sheep, and (4) the aggregate value and number of swine over six months of age, as the same were returned to the clerk of the board of supervisors by the assessor of his county. A system of taxing railway corporations on the basis of gross receipts was established;<sup>164</sup> and some minor changes were made relative to the sale of real property for delinquent taxes.

In his second biennial message of January 12, 1864, Governor Kirkwood renewed many of his former recommendations relative to the tax system — especially the payment by the county treasurers of their full quota of State tax whether the same had been received or not, the suggestion favoring a percentage to county treasurers on the amount of money collected and disbursed, and the creation of a new system of township collection.<sup>165</sup>

In marked contrast to the vigorous and constructive recommendations of the retiring executive, a policy of opti-



mistic conservatism characterized the attitude of Governor Stone. In his first inaugural the new Governor, speaking of the subjects of finance and revenue, says: "I would recommend extreme caution in their consideration, and advise no change in any of them, unless demanded by obvious utility and sound experience."<sup>166</sup> He did, however, recommend the consideration of a possible change from the supervisor system to the commissioner system of county government.<sup>167</sup>

Little was done by the Tenth General Assembly along the line of tax legislation. An act was passed providing for the payment of taxes and the interest and principal of the school fund in treasury notes issued as legal tender by the United States government, notes of national banks as created by act of Congress, and notes of the State Bank of Iowa.<sup>168</sup> Aside from this no fiscal legislation of importance was enacted; and the supervisor system of county government was not changed. In his first biennial message of January 8, 1866, Governor Stone again made an optimistic report on the subject of finance and revenue. "Our financial affairs", he said, "were never in a sounder condition. During the entire period of the war we have levied but two mills on the dollar for State purposes; and have incurred an indebtedness of only \$300,000, which was for military expenditures during the first year of the war . . . Careful observation has satisfied me that any attempt to improve the present revenue system by additional legislation would be an experiment of doubtful expediency."<sup>169</sup> The following sums had been expended for military purposes:

May, 1861, to November 4, 1861 .....	\$233,568.43
November 4, 1861, to November 2, 1863 .....	639,163.85
November 2, 1863, to November 4, 1865 .....	169,231.00
November 4, 1865, to January 1, 1866 .....	4,047.71 <sup>170</sup>

Most of these expenditures had been made during the

period which closed with the fiscal year 1863, and were incurred to facilitate the military operations of the Federal government and to defray a large part of the expense incurred in enlisting, transporting, quartering, and paying the volunteer forces organized in the State. These sums thus expended had merely been advanced to the United States and the State would in time be reimbursed under acts of Congress.

Two years later, following the suggestions made by Governor Kirkwood in each of his biennial messages, the Eleventh General Assembly made an earnest effort to enact a law providing for the collection of public moneys by township collectors. A bill was introduced by Senator Hilsinger of Jackson County to create such a system.<sup>171</sup> Space will not permit any lengthy examination of the arguments which were advanced for and against this bill in both the Senate and the House. Senator J. H. Smith said that "his county desired the system of Township Collectors. Under this system the taxes were closely collected. New England had adopted this system, and New England had the reputation of knowing how to make money, and how to keep it."<sup>172</sup>

Some members felt that the measure was unconstitutional because it did not provide a uniform system for all the counties, but made the adoption of the plan optional with the county board of supervisors, the question to be determined by a two-thirds vote. Still other members complained of the expense and trouble of going to the county seat in order to pay taxes. Senator Paulk claimed that "it costs the people of the State of Iowa more to go up to Jerusalem to pay their taxes than the taxes are in the first place."<sup>173</sup> Senator Ross believed a system of township collection would not be practicable "in this young state", especially in the sparsely settled districts. The Senate was closely divided on the merits of the bill. The first vote,

taken January 30th, was a tie — twenty votes being cast for and twenty against the measure.<sup>174</sup> Not having received a constitutional majority, the bill was declared lost. On the following day, however, upon reconsideration it passed the Senate by a vote of twenty-seven for and seventeen against.<sup>175</sup>

In the House a similar bill had been introduced by Mr. Bolter on January 19th.<sup>176</sup> Both bills were referred to the Committee on Ways and Means and reported back without recommendation.<sup>177</sup> A long and animated debate followed, in which the arguments were, for the most part, quite similar to those already advanced in the Senate. Mr. Hale opposed the system because “under the provisions of the bill the money would pass through too many hands. The taxes would not be collected more readily. The stringent law in regard to delinquent taxes had secured prompt payment more effectually than any other provision could. He was opposed to delegating too much power to the separate counties. Only in extraordinary cases would he favor this kind of legislation which breaks up the uniformity.”<sup>178</sup>

Much objection was raised against the idea of having two different systems throughout the State. Mr. Sapp said that wherever the township system was adopted it was general throughout the State. Here it was proposed to have two systems in operation. This he could not favor.<sup>179</sup> On the other hand, many members favored the measure because they believed that it would secure a closer collection of taxes. The majority, however, finally lined up against the bill and it was defeated on March 12, the vote being forty-three yeas and fifty nays.<sup>180</sup>

At the following session of the General Assembly (1868) a bill along similar lines was introduced by Senator Fairall; and this bill became a law.<sup>181</sup> By its provisions the introduction of the township system was made optional with the board of supervisors of each county having a population



exceeding seven thousand inhabitants. It was provided that the resolution creating such a system should be passed by a two-thirds vote at their regular June meeting; and, in the event of adopting such a resolution, a collector was to be elected annually for such organized township, save the one in which the county seat was located.<sup>182</sup>

In the counties thus providing for the township system it was made the duty of the county auditor to prepare a duplicate tax list of each township, which list was to be delivered, with the original to the county treasurer, who in turn was required to deliver the duplicates to the several township collectors. The provisions regarding monthly statements to the county treasurer and compensation of collectors recall to mind the recommendations of Governor Kirkwood.

The compensation of township collectors was (1) two per cent of all sums collected on the first two thousand dollars and one per cent on all sums in excess thereof collected otherwise than by distress and sale, to be paid out of the county treasury, and (2) five per cent upon all taxes collected by distress and sale, to be paid by the delinquent taxpayer, and the same fees in addition to the said five per cent as constables were entitled to receive for the sale of property on execution.<sup>183</sup> In counties not availing themselves of the township system, or where the population was seven thousand or less, the county treasurer was given the power to appoint one or more deputies to aid him in the work.

In his first biennial message of January 11, 1870, Governor Merrill called attention to the observations and suggestions of the Auditor of State in reference to double assessments and the cumbersome mode of keeping tax-books, and suggested that the plan outlined might afford a remedy "for an evil of great magnitude."<sup>184</sup>

In the report to which the Governor referred there is a

careful discussion of a number of important fiscal questions. The Auditor speaks of double and erroneous assessments, points out the advantages of the geographical or congressional as opposed to the alphabetical system of assessment for taxation, and recommends the semi-annual payment of taxes into the State treasury. "In place of our present system of assessing and listing lands alphabetically," he writes, "I would recommend assessing and listing in geographical order, and in making out the tax lists would recommend having nothing more on the list than the description, number of acres, valuation and total tax, instead of the owners' name, description, number of acres, valuation, and the tax divided into from ten to a dozen different funds, as it now is."<sup>185</sup>

According to this instructive report it appears that during the preceding biennial period \$40,808.65 had been remitted on the ground that it represented double and erroneous assessment. Larger sums had been remitted in earlier periods — a condition of affairs vexatious to county officers, owners, and purchasers of tax titles and expensive to the State and counties. The remedy, he alleged, was to place nothing more on the list than the description, number of acres, valuation, and total tax, instead of the owner's name, description, number of acres, valuation; and the tax divided into ten or a dozen different funds. Such a plan, it was claimed, would be simple, clear, accurate, and less expensive than the old system.

These recommendations of the Auditor were in a measure made the basis of legislation. A law was passed by the Thirteenth General Assembly (1870) providing for the consolidation of certain taxes by which it was enacted that uniform taxes be placed on the tax list in a single column and denominated a consolidated tax, and that tax receipts be printed to show the per cent levied for each separate fund.<sup>186</sup> This act has remained a permanent feature of

our revenue laws and has done much to simplify the assessment roll.

The important period of our tax history outlined in this chapter closed with the second biennial message of Governor Merrill. The views of the Governor regarding a high tax rate, under-valuation, and the necessity of imposing statutory limitations on the taxing power may best be told in his own words.

"The total valuation", wrote the Governor, "upon which this taxation (\$9,371,685.76) was based was in the neighborhood of \$300,000,000, making the levy some  $3\frac{1}{8}$  per cent. This is a heavy — not to say oppressive — rate of taxation. To be sure, it is based on a great undervaluation of property; upon actual value it would probably be about one and a quarter per cent — certainly not more than one and a half. But this rate, it will be remembered, is an average one throughout the State, and implies, of course, a higher rate in some localities. In fact, a rate twice as high does actually prevail in some parts of the State. It is true that much the larger part of this amount of taxation is levied by the people themselves, or by their immediate representatives in city, township, and school boards. Nevertheless, I suggest to the legislature the propriety of adopting a maximum limit of taxation to which any property may be subjected in one year".<sup>187</sup>

When these statements were made the following maximum rates of taxation were provided by law:

State .....	2 mills
County, for ordinary revenue .....	4 mills
County, for schools .....	$2\frac{1}{2}$ mills
County, for bridges .....	3 mills
Township, for roads .....	5 mills
<hr/>	
Total .....	$16\frac{1}{2}$ mills

In addition, school boards were authorized to levy a tax



for a contingent fund and one for a teachers' fund sufficient, with the annual apportionment, to sustain school twenty-four weeks in each year, and longer if desired by the sub-districts.

The period of our revenue history from 1857 to 1872 as considered in this chapter may be briefly reviewed. The existence of war and the imposition of a direct Federal tax for that purpose had a marked effect both directly and indirectly on the revenue system of the State. The gross receipts tax on railroads, one-half of the proceeds of which passed into the State treasury, was indirectly a war measure. The profound messages of Governor Kirkwood, revealing the defects of the tax system and pointing out the leading features of a good revenue law, had much to do with strengthening the fiscal power of the State. Tax titles were made more secure and the fiscal reports submitted by the counties to the State were required to be more accurate and complete. Much progress was also made in the solution of the delinquent tax problem. In a word, the administration of Governor Kirkwood, accompanied as it was by the exigencies of civil war, developed a far more efficient system of collecting State taxes than had previously obtained.

Regarding the division of fiscal authority as between the county and lesser units of government, considerable additional legislation was enacted. The county board of supervisors was given power to levy taxes and was made the county board of equalization. In 1862 an act was passed providing for city and town assessors, which was supplementary to the earlier act definitely establishing the township system of assessment. As already indicated these measures resulted in the complete decentralization of the machinery of assessment, and for that reason they might with propriety be entitled "A series of acts to guarantee

the administrative failure of the general property tax''.

Finally a law was enacted in 1868 making township collection of taxes optional in counties having a certain population. Thus in optional township collection, but especially in township, city, or town assessment, we note the passing of fiscal authority from the county to the lesser units of government. On the other hand, the strengthening of the fiscal power of the State meant a passing of authority away from the county in the opposite direction. When, however, the question was asked, should local assessors be granted the power to meet at the county seat and equalize the results of their own labors, it was answered in the negative by the creation of a regular county board of equalization. Briefly stated, the period was a mixture of centralization in name and decentralization in fact, some nominal power being transferred to the State while the real substance of fiscal authority was absorbed by the local units of government.

In conclusion, the enactment of a law providing for a consolidated tax list, the recommendation of Governor Merrill for the semi-annual payment of taxes, the arguments in favor of the geographical or congressional system of assessment, and especially the necessity of imposing statutory limitations on the taxing power should be remembered for the important bearing which they have on later developments.

#### IV

### ADMINISTRATIVE FAILURE OF THE GENERAL PROPERTY TAX

1873-1910

When the *Code of 1873* was adopted much of Iowa was no longer a pioneer section. In fact the Commonwealth had just passed through a period of great industrial expansion — an index of future development. Corporations were being rapidly organized, which meant consolidation on the one hand, and the rapid growth of intangible wealth on the other. In striking contrast with the industrial centralization, which even at that time was becoming a serious problem, should be noted the administrative decentralization which characterized the field of public finance. How this system operated, or in other words the administrative failure of the general property tax, is clearly revealed by an impartial examination of the facts of our revenue history.

In 1873 the tax levy for the State was made by the Census Board, and for the local units by the county boards of supervisors — the levies in each case being fixed within certain specific statutory limitations. The assessment was made by township assessors chosen annually by popular election. Attention has also been called to the growth of a more complete system of statutory equalization, consisting of (1) the township board of equalization, composed of township trustees or the city council, (2) the county board of equalization, composed of the board of supervisors, and (3) the State board of equalization or Census Board. Finally, the collection of taxes was made by the county treasurer assisted by deputies, or under certain conditions in coöpera-



tion with township collectors.<sup>188</sup> Such in a word was the machinery created by acts of the General Assembly for the administration of the general property tax.<sup>189</sup>

The fact that this revenue system had been gradually developed at the cost of much printer's ink is evident when we compare the *Code of 1873*<sup>190</sup> with the *Revision of 1860*.<sup>191</sup> The powers of the county board of supervisors the classification of taxable property, also of property exempt from taxation,<sup>192</sup> the duties of the assessor, the tax list and its preparation, the equalization of taxes, the provisions regarding delinquent taxes and tax sales, in fact the fundamental elements of our revenue system remained essentially the same. The few changes which were made may be briefly summarized.<sup>193</sup>

The clerk of the county board of supervisors was superseded by the county auditor. A township board of equalization had been created with power to increase or diminish the valuation of any piece of property, or the entire assessment of any taxpayer, in case such action was deemed necessary for an equitable distribution of the burden of taxation upon all the property of the township.<sup>194</sup> The time of making reports was changed in some cases. Under the *Code of 1873* classifications of property were made by the boards of supervisors at their annual meeting in January, while by the terms of the *Revision* such classifications had been made by the assessors at an annual meeting held in the office of the clerk of the county board of supervisors on the second Monday in January.<sup>195</sup> It was further provided in 1873 that a certificate of such classifications be furnished each assessor by the county auditor on or before the fifteenth day of January,<sup>196</sup> and that the assessor be required to enter upon the discharge of his duties on the third Monday in January and on or before the first Monday in April of each year deliver to the clerk of his township one of the assessment books to be used by the trustees for

the equalization of assessments and the levy of taxes for township purposes.<sup>197</sup> Under the *Revision of 1860*, the assessor had been required to enter upon the discharge of his duties on the second Monday in January, and to make his report to the clerk of the county board of supervisors on or before the third Monday in May.<sup>198</sup>

The powers of the county and State boards of equalization remained the same. Moreover, it should be noted that these boards deal with the "aggregate valuation" of property and not with inequalities as between individual taxpayers.<sup>199</sup> The Census Board was superseded by a similar board known as the Executive Council, consisting of the Governor, Secretary, Auditor, and Treasurer of State,<sup>200</sup> which was required to meet on the second Monday in July to determine the State tax rate and equalize the valuation of real property among the several counties of the State, the equalization to be completed on or before the first Monday in August.<sup>201</sup>

By the provision of the *Code of 1873* the time of making the tax levy by the county board of supervisors was changed from their regular meeting in June to their regular meeting in September — thus giving more time to make returns and complete the assessment roll and tax list.<sup>202</sup> No demand for taxes was deemed necessary, it being made the duty of the taxpayer to call at the office of the treasurer and pay his taxes some time between the second Monday of November and the first day of February. The work of collection was placed in the hands of the county treasurer, assisted by deputies or in coöperation with township collectors as already noted.<sup>203</sup> The provisions regarding delinquent taxes were made more elaborate and the penalties somewhat more severe than under the *Revision of 1860*; but when a careful analysis has been made the changes along this line prove to be more nominal than real.

The question naturally arises, what had been accom-

plished? The old evil of grossly unequal assessments (that is, of unjust taxation) continued to exist and, indeed, became a very serious problem. From the standpoint of fiscal administration the State seemed to have no definite, well-conceived policy. While it may be affirmed that some fiscal authority had passed from the county to the State during the period from 1857 to 1872, it is a recognized fact that the township, town, and city had become the all important units of fiscal administration. It is interesting, indeed, to note how a small measure of fiscal centralization (a centralization largely on paper) was accompanied by fiscal decentralization (a decentralization in fact). The fiscal authority of the county decreased both in form and in substance — the form going to the State and the substance passing to the township, town, or city.<sup>204</sup> The revenue system, which had its inception in pioneer days, was destined to be less and less adapted to the conditions of a wealthy industrial Commonwealth.

It would be erroneous to say, however, that no progress had been made during the period from 1857 to 1872. For certain corporations special forms of taxation with more or less merit had been developed. A more complete classification of taxable property had been made. Many gaps in the law relative to delinquent taxes, the manner of making financial reports, the security of public funds, and equalization, had been bridged over. In short, some effort had been made to adapt the general property tax to the rapidly changing conditions of the economic life of the people. The General Assembly from time to time had diligently endeavored to add new cloth to an old fiscal garment, leaving it the same garment still. It will be the purpose of this chapter to record the history of the failure of this system of general property taxation, which as early as 1872 was the result of a generation of almost constant legislative enactment in Iowa.



In his report for 1873 the Auditor of State suggested the propriety of making a change in the mode of reporting and collecting the State revenue. The amount of taxable property for each county, appearing on his books as reported by county auditors, he alleged, was subject to constant change from additional assessments, erroneous assessments, or taxes declared to be unavailable. "It would very much simplify the mode of doing the business", he writes, "if the counties were made responsible at once for the full amount of tax, as shown by the tax levy in each year, without allowing any change to be made by any of those deductions or additions, provided for under our present law."<sup>205</sup> This recommendation was endorsed by Governor Carpenter who suggested also that it might be well to collect the taxes semi-annually instead of annually, as then required by law.<sup>206</sup>

The Fifteenth General Assembly (1874) added practically nothing to the revenue laws of the State. Two years later the Auditor of State endorsed the recommendation of his predecessor that each county be held absolutely responsible for the full payment of the annual State tax. "I believe", says the Auditor, "in the practicability of the method proposed, and altogether the plan commends itself to my unqualified approval."<sup>207</sup> To compensate for this advantage, it was further suggested that all the interest collected upon State tax levies, together with the amount received from peddler licenses and certain additional assessments, be surrendered to the counties. This, it was believed, would prove an incentive to more efficient administration.

Two other points are clearly stated in the Auditor's report: first, fully ten per cent of the amount of taxes levied was for various reasons uncollected and so absolutely lost; and, second, property was by no means assessed at the true cash value as provided in the *Code of 1873*. In this connection the words of the Auditor are significant.

“Notwithstanding the law is thus explicit,” he says, “it is notorious that it is not obeyed, and in but few cases is there any pretense of observing the requirements of the statute; not because the law is regarded as unreasonable, nor impracticable of compliance, but rather that years of following in a wrong direction have established a custom, which individual officers are loth to depart from, lest the neighboring locality, in not coming up to the correct standard, shall escape with a less amount of taxation, than that in which the assessor makes the effort to correct the evil. As a consequence, real property is not generally reported at more than one-third its actual value, and even that differs so much in localities, and as often in contiguous townships as otherwise, that it is difficult to conceive the motive, or standard of value, governing the assessor. The theory of the law is, that these inequalities are corrected by the action of the several boards of equalization, whose duty it is, each in its own sphere, to harmonize these values, and cause the burden of taxation to rest equally upon all portions of the State. This could be better done, were the State destitute of cities, and comprised an agricultural region only. As it is, the values of realty in town, and country, are relatively grossly disproportioned, and when taxes are levied, one or the other bears more than its proper share. A glance at the last assessment reveals the fact, that, whereas some cities are rated far below others of the same class, the lands of the county within which the city is located are often placed at so high a figure, when compared with other counties that the board of equalization is powerless to establish proper values for the city without manifest injustice to the country, and *vice versa*. The State Board is unable to make a just equalization, because no authority is given to change the assessment of a city without a corresponding increase or decrease as to all the real estate in the county. It would be well to amend the law,

and authority be given the State Board to excerpt, when necessary, the cities from the counties, and fix upon either, independently of the other, such a percentage of increase or decrease as justice would seem to demand relatively with other property in the State of the same general class, and substantially as is now done between the different counties." 208

These suggestions and recommendations, it will be observed, read like an up-to-date document. Indeed, they might be reproduced to-day and be as true of present conditions as they were of conditions in 1875. We are told that assessments were then grossly unequal; that real property was assessed at about one-third of its value; that the motive or standard of value governing the assessor was an unknown quantity; and finally, that the work of the various boards of equalization in correcting inequalities of assessment was nominal and not real. A palliative was offered in the recommendation that the State Board be given power to make a separate equalization for cities. In a word, we have here a clear statement of the evils then existing with no definite program for their solution.

Governor Carpenter gave his approval to the recommendations that the appropriation year and fiscal year begin and end on the same day, that the counties be held responsible for the collection and payment into the treasury of the State tax, that the board of equalization be given power to equalize between the realty in cities and the lands outside, and finally, that many forms of property be taxed, which, from the failure of the local assessors to reach them, now escape their just share of the public burden.<sup>209</sup> But notwithstanding these recommendations and suggestions and notwithstanding the many obvious defects of the tax system the Sixteenth General Assembly (1876) accomplished nothing along the line of revenue reform.

In the State executive documents of 1877 more complete



and urgent recommendations along the line of taxation appear. For the first time we find in the *Report of the Auditor of State* a specific criticism of the method of local assessment. "So long as we adhere to local assessment only", writes the Auditor, "I can see but little opportunity for improvement. It has occurred to me, however, that with some modifications of the system, a more equitable valuation may be realized." <sup>210</sup>

The Auditor mentions two ways of securing this more equitable valuation. The first suggestion is especially noteworthy.<sup>211</sup> "In some States", suggests the Auditor, "this labor is performed under the general direction of a county assessor. Such plan would not avail here, without authority to appoint a sufficient number of deputies to complete the work within the time necessary, or investing the officer with control of the township and city assessors; in which case we would be reasonably sure to accomplish a more equal valuation of all kinds of property, inasmuch as all would be done under one supervision." <sup>212</sup> Strange as it may seem these words reflect a bit of real fiscal statesmanship.

But how is a more equitable valuation to be secured? And what should be the seat of fiscal authority? Two plans are possible: a county assessor with deputies to complete the work in the required time; or the same official may be given supervision over city and township assessors. Reduced to its lowest terms, this is the old question of the county versus the township from the standpoint of administration. The Auditor, however, confesses a prejudice in favor of the method of assessment by local officers, elected by the people in each city and township, and he suggests as a second avenue of necessary reform that all the assessors of each county be required to meet at the courthouse on the first Monday in January and adopt a general schedule which should govern the work of assessment for that year.

In the same report we are told that the inequalities sug-

gested regarding real estate were even more conspicuously true of the assessment of personal property. "A glance at the returns for the present year will convince the most skeptical, that not only is the property undervalued, but that a large proportion of the personal wealth of the state, entirely escapes taxation."<sup>213</sup> With such gross inequalities but one result was possible—the maximum rate of tax allowed by law. Were all property assessed at its true cash value, as the law really contemplated, the result would be a substantial reduction of the tax rate.<sup>214</sup> Even land, according to the Auditor, was being assessed at less than half of its actual sale value.

The biennial message of Governor Newbold of January 15, 1878, contains some important recommendations along the line of tax reform. He reiterates the opinion that the counties should be made absolutely responsible for the State tax, "being firmly persuaded as I am that every year's experience continuously demonstrates the unbusiness-like character of the present mode of keeping the revenue accounts with the counties".<sup>215</sup> He also recommends the semi-annual payment of taxes, and suggests that the law be so amended "as to require the counties to pay into the state treasury only the tax on realty, leaving the corresponding tax on personalty in the county treasury."<sup>216</sup> The merit of such a system, he held, was the removal of an incentive to the undervaluation of personal property by making the adjustment of the same entirely a county function. This type of county option calls to mind one form of present day tax reform of which more will be said later.<sup>217</sup>

The question of State finances at this time became an important topic of discussion in the State press. The State had a floating warrant debt of about \$350,000 which meant either that expenditures must be materially reduced or that some new plan must be devised for raising additional revenue. *The Dubuque Times* placed the responsibility for

the depleted condition of the treasury upon the General Assembly of 1876 which, it declared, "was one of the most reckless and irresponsible legislative bodies that ever convened in our State".<sup>218</sup> Many other papers, however, did not share this view. *The Cedar Rapids Republican* and the *Council Bluffs Nonpareil* expressed the opinion that the rate of assessment and not the rate of taxation should be increased. *The Sioux City Journal* held similar views. "The secret of the trouble", declared the editor, "lies in the fact that while the expenses of the State have been largely and legitimately increased under the wretched system of assessment pursued, the income of the State has remained very near the same. The State revenue is really but a trifle more now, under the same nominal rate of taxation, than it was eight and ten years ago. This is a fact worth considering in connection with the information contained in our census reports showing the increase in population and wealth of the State in that time. As things are, taxes are not equally laid, and the laws as they exist are by no means executed." <sup>219</sup> Such a condition of fiscal affairs, it was claimed, would prove injurious to the State. With much property given only a nominal value and a large amount entirely escaping the burden of taxation, the remainder would be required to bear an exorbitant rate — a condition detrimental to the industrial progress of the State.

A bill was introduced in the House of Representatives providing for the payment of taxes in semi-annual installments at the option of the taxpayer, and further providing that the counties be made responsible for the full amount of State taxes charged against them upon the books of the Auditor of State.<sup>220</sup> This bill, however, failed to be enacted into law — a failure due, first, to the feeling that a more urgent need was the removal of unnecessary burdens rather than the semi-annual payment of such burdens, and



second, to the opposition developed against making the counties absolutely responsible to the State, when it was a matter of common knowledge that so large an amount of property (especially personal property) was evading taxation altogether.

In his report for 1879 the Auditor of State repeats many of his former recommendations. He continues to complain that the assessment of property throughout the State is made at less than one-half and frequently at not more than one-third of its true cash value. "I have heretofore believed", he writes, "and yet hold to the opinion, that if the law was adhered to, it would be better for the people than the pernicious custom which now prevails".<sup>221</sup> He further recommends that the taxpayer be required to state on a printed blank a complete list of his personal estate subscribed by himself, and that the assessor be given more time in which to complete his work. By thus perfecting the law, he hoped to reach a large amount of personal property that was entirely evading the burdens of taxation.<sup>222</sup>

Governor Gear also recommended remedial legislation relative to personal property and suggested that taxes be made payable semi-annually. An amendment to the law requiring each assessor to make oath to the board of supervisors that the provisions of section 825 of the *Code of 1873* had been carried out by him before receiving compensation for his work, the Governor believed, would have a tendency to secure the better enforcement of the law. A fourth suggestion made in this message of January 13, 1880, is worthy of special attention both from the standpoint of assessment and the necessity of statutory limitations on the local taxing power. "If the property of the state", he says, "were to be assessed at its real value — a consummation most desirable for her reputation both at home and abroad — the result would be nearly, if not quite, to double the taxes, not only of the state, but of the counties, cities,

and lesser taxing districts, by reason of the fact that the law permits the county and city authorities to levy a certain percentage of taxes, which is usually done in most cases to the maximum limit. If the percentage of taxes now authorized by law were decreased by about one half, the result, in my opinion, would be that the next assessment of property would be at, or nearly on a basis of, its cash value, while the aggregate of taxes would not be increased thereby." <sup>223</sup>

Early in the session of the Eighteenth General Assembly (1880) the fight for semi-annual payment of taxes began in earnest. A bill was introduced by Mr. Pliny Nichols of Muscatine,<sup>224</sup> providing that taxes be made payable semi-annually on or before the first day of March and on or before the first day of September following. The leading arguments in favor of the bill were well stated by Mr. Nichols in a communication to the *Iowa State Register*.<sup>225</sup> Chief among these arguments should be mentioned the claim that fully six million dollars was raised long before it was needed—which merely represented so much dead capital that might prove beneficial to the banks, but was a positive loss to the taxpayer.

Mr. Nichols made an able and earnest defense of the measure. A similar law had been enacted in Ohio and Indiana, and in the former State had been in force for twenty-one years. New Jersey permitted the payment of taxes in four installments. Upon investigation the system was found to have met with success where it had been tried. A letter received from the Ohio Auditor of State claimed that semi-annual payments were "so much superior to the old annual system that under no circumstances could we be induced to repeal the present law."<sup>226</sup> Continuing the argument, the author of the bill stated that objections to semi-annual payment of taxes could come from only three sources: first from a few officials who regarded their own

ease more than the interest of the people; secondly from a few banks that would serve themselves at the expense of the taxpayer; and lastly, from a few citizens who considered the power of a few officials and capitalists more than they did the general welfare of the public.<sup>227</sup>

The bill passed the House February 20, 1880, the vote being eighty-four yeas and fourteen nays.<sup>228</sup> It was at once transmitted to the Senate and on the following day was referred to the Committee on Ways and Means.<sup>229</sup> A substitute bill was prepared which was reported back on March 1st with the recommendation that it be indefinitely postponed.<sup>230</sup> Mr. Nichols, however, was not to be defeated without a struggle. "I have learned this morning, to my surprise," he said, "that the Ways and Means Committee, which is composed of a majority of lawyers and bankers, have 'set down' on the bill, and that . . . there will be little show for any measure that looks to the relief of the tax payers of the State".<sup>231</sup> The measure was debated in the Senate and recommitted to the Committee on Ways and Means on March 8th, only to be reported back for indefinite postponement.<sup>232</sup>

Thus was defeated the earnest effort for semi-annual payment of taxes. The same zeal which characterized this contest was also manifest along other lines of fiscal reform. The majority realized the need of better tax laws, but no one came forward with a definite workable policy. Some members believed that the system of keeping county accounts should be remedied by having all tax receipts countersigned by the county auditor.<sup>233</sup> Others held that a satisfactory remedy could be secured by giving larger powers to the State Board of Equalization. A writer in the *Iowa State Register* says that "there seems to be a general desire on the part of our legislators at Des Moines to greatly improve our assessment laws, but as yet no definite plan or measure has been proposed that promises to remove the



evils of our present system of doing that branch of the public business. The trouble, as it seems to us, arises not so much from the want of compliance with the statutes already on our books. Make the laws more stringent and mandatory, if you can, and then confer large discretionary and remedial powers upon the State Board of Equalization. That might serve to bring our assessors and supervisors up to a sense of the obligations imposed upon them when they take their official oaths.”<sup>234</sup>

Numerous bills were introduced in order to remedy the defects of the revenue system, but in the absence of a definite coherent policy they failed to pass.<sup>235</sup> After a prolonged debate, a law was finally enacted appropriating \$300,000 and making a special levy not to exceed one-half mill on the dollar for the payment of the War and Defense Bonds authorized by the Eighth General Assembly and due July 1, 1881.<sup>236</sup> Aside from this measure no fiscal legislation of importance was enacted in 1880 — and this in spite of the fact that the House had passed the following resolution instructing the Ways and Means Committee to secure a way of catching the untaxed millions:

WHEREAS: There is and has been for several years in this State great complaint about the failure of assessors to assess all the property there is in the State, and

WHEREAS: It was early urged upon this General Assembly, by the public print and all classes of property holders, that one of the highest duties should be to improve our Revenue Laws, so that there will be a more efficient assessment of property and especially personal property, and

WHEREAS, It is claimed by able statisticians, that there is as much personal property in this State in value, as there is in realty, and yet the report of the Auditor of State shows that the personal property assessment of 1879 was but \$79,618,995, a trifle over one-fourth the assessed value of real estate, and

WHEREAS, It is believed that the question of getting all species

of property equally and fairly assessed is one of the most important duties of the General Assembly, and

WHEREAS, There is now before the Ways and Means Committee of the House, several important bills intending to remedy the defects above set out: therefore be it

*Resolved*, By this House, that the Committee of Ways and Means are hereby instructed to perfect, at as early a date as possible, and report to this House a bill which will meet, as far as possible, the wants of our Revenue laws, as stated in the preamble hereto, and as more fully shown on pages 6, 7 and 8 of the last biennial report of the Auditor of State.<sup>237</sup>

Two years later the *Report of the Auditor of State* was even more pronounced in favor of revenue reform. How to prevent double taxation, secure a more uniform assessment of property at its full cash value, and place a larger amount of personal property, especially credits, on the tax roll were among the problems which received special attention in the report. Personal property had only increased from \$75,201,-885 in 1871 to \$89,327,400 in 1880. It was estimated "that the burthen of taxation is laid upon the realty as three is to one, or nearly so."<sup>238</sup> To the argument that the local authorities would levy the full percentage of the true cash value of property, the Auditor replied by recommending that the General Assembly amend the law authorizing the levy of taxes by reducing the maximum levy from six and four mills to three and two. In this way he hoped to force local officials to obey the assessment laws.<sup>239</sup>

Governor Gear again recommended the advisability of making taxes payable semi-annually, a policy which he said would keep several million dollars in the hands of the people which, under the existing system, was locked up in the treasury or deposited in banks.<sup>240</sup> The question of fiscal reform again received the serious attention of the General Assembly. But the experience of 1880 was repeated. The advocates of reform did not seem to have their plans care-

fully made. There were many ideas of what should be done, but no definite program was proposed.

At least three bills were introduced into the Senate in relation to the duties of boards of equalization. They were referred to the Committee on Ways and Means of which Senator William Larrabee was chairman, and a substitute offered with the recommendation that the substitute do not pass.<sup>241</sup> Another bill in reference to the time of paying taxes was disposed of in the same manner. The Committee on Ways and Means also made an adverse report on the bill providing for semi-annual payment of taxes.<sup>242</sup> Senator Larrabee considered that this bill "was a good deal like some of the measures of the Greenback party, and thought its passage was not demanded by the best interests of the taxpayers of Iowa."<sup>243</sup>

But Senator Nichols was determined to make an effort to secure the enactment of his favorite measure. Two years earlier he had secured its passage in the House. He was now a member of the Senate Committee on Ways and Means, and in that capacity drafted an able minority report.<sup>244</sup> In this minority report it was claimed that semi-annual payment of taxes would materially reduce the delinquent tax list and annual tax sales; that many defalcations would be prevented; that five million dollars would be left in the hands of the taxpayers of the State for an additional six months to be used in legitimate enterprise; that government expenses had, as a rule, to be met gradually and therefore lump sum payment would always leave a large amount hoarded in the treasury; and finally, that the system was in vogue in other States and always tended to lighten the burdens of taxation. The minority report was in fact a brief but clear and convincing exposition of the arguments favoring semi-annual payment of taxes.

It will be noted that the arguments are essentially the same as those presented in 1880. Senator Nichols made a



vigorous contest through the press and had many strong supporters in the Senate, but he was unable to secure the passage of the bill. After a prolonged debate it was finally referred to a special committee and defeated.<sup>245</sup>

It is apparent, however, that the sentiment in favor of tax reform had become much stronger than it was in 1880. There was a growing conviction among thoughtful men that the revenue laws presented a lack of system in the assessment, equalization, local levy, and finally in the manner of expending the various funds. There was also a duplication in the holding of local offices which amounted to chaos and resulted in a complete absence of official responsibility and therefore a squandering of the public funds.<sup>246</sup> It was not uncommon to find a person holding the office of assessor and trustee at one and the same time, thereby making the assessment and also helping to equalize it. In other cases the same person would hold the offices of town clerk and road supervisor, thus drawing the funds out of the county treasury and paying them to himself. Under such conditions one is not surprised at the question frequently asked: Is it any wonder that people's taxes are squandered?

The only fiscal legislation enacted by the Nineteenth General Assembly (1882) which should be noted in this chapter was: first, the law providing for biennial election of local assessors and granting additional assessors to cities of over ten thousand inhabitants;<sup>247</sup> second, the acts transferring the war and defense bond tax to the State revenue;<sup>248</sup> and third, the act levying an additional one-half mill "for the purpose of reimbursing the general revenue fund of the State on account of money paid out of said fund for war debts, and for the completion of the new capitol and the better support of the state institutions."<sup>249</sup> In other words no reform of a general nature was enacted into law. The revenue system of the State remained substantially the same with all of its imperfections.

In the Twentieth General Assembly (1884) the struggle for tax reform was renewed. The Auditor of State again recommended that the counties be made responsible for the amount of taxes levied for State purposes (said amount to be paid in four equal quarterly installments), the counties, in turn, to receive the benefit of all additional assessments and all penalties on delinquent taxes.<sup>250</sup> This view was heartily endorsed by Governor Sherman. "It is the only equitable method whereby counties will be placed upon a real level with each other", he said, "and at the same time make certain the revenues to the State, which it will readily be seen is of vital importance to intelligent legislation."<sup>251</sup> The chief executive also urgently endorsed the advisability of allowing taxpayers, at their option, to pay their taxes in semi-annual installments.

Senator Nichols for the third time introduced his bill to make taxes payable semi-annually.<sup>252</sup> It received a favorable report from the Committee on Ways and Means and passed the Senate with but little opposition.<sup>253</sup> In the House, Mr. Lewis Fordyce moved to strike out the enacting clause, which resulted in a spirited debate.<sup>254</sup> The bill was finally passed by a large majority.<sup>255</sup>

During the course of the House debate on the semi-annual tax bill, an amendment was introduced by Mr. Welcome Mowry reducing the penalty on delinquent taxes.<sup>256</sup> There was a strong sentiment in the State at this time against so heavy a penalty on delinquent taxes and also against publishing the delinquent tax list. In other words, the people were in favor of passing laws but did not care to enforce them. The Mowry amendment placed a premium on lax administration for the obvious reason that a sure method of avoiding penalties was to obey the law. The spirit of the amendment may be paraphrased in these words: We will pass all the laws you desire, providing you will agree not to administer them.<sup>257</sup>

Public sentiment was so strong, however, that the Mowry amendment prevailed. The semi-annual tax bill as it finally passed and became law provides a penalty on delinquent taxes "at the rate of one per cent per month thereafter until paid."<sup>258</sup> Section 866 of the *Code of 1873* had provided penalties "at the rate of one per cent. a month on the amount of the tax for the first three months, two per cent. for the second three months, and three per cent. a month thereafter."<sup>259</sup> The amendment under consideration meant, therefore a reduction of penalty from a maximum rate of thirty-six to a maximum of only twelve per cent annually. This bit of our financial history is worthy of careful study from the standpoint of how not to secure efficient tax administration.

The law providing for the semi-annual payment of taxes may best be understood by a careful reading of its principal section. "No demand of taxes", reads the law, "shall be necessary, but it shall be the duty of every person subject to taxation to attend at the office of the treasurer, unless otherwise provided, at some time between the first Monday in January and the first day of March following, and pay his taxes in full; or, he may pay the one-half thereof before the first day of March succeeding the levy and the remaining half thereof before the first day of September following; *provided*, that in all cases where the half of any taxes has not been paid before the first day of April succeeding the levy thereof, the whole amount of taxes charged against such entry shall become delinquent from the first day of March following such levy; and in case the second installment of any taxes be not paid before the first day of October succeeding its maturity, penalty shall be computed on such installment from the first day of September designating the maturity of such installment; *provided also*, that in all cases where taxes are paid by installment as herein provided, each of such payments, except road taxes, shall be apportioned



among the several funds for which taxes have been assessed, in their proper proportions. And if any one neglect to pay his taxes at or before maturity, as herein provided, the treasurer may make the same by distress and sale of his personal property not exempt from taxation, and the tax list alone shall be sufficient warrant therefor."<sup>260</sup>

This review of the work of the Twentieth General Assembly may be concluded by a brief reference to the mortgage tax bills,<sup>261</sup> which will be studied in a later chapter, and to the tax bill introduced by former Governor Carpenter. This important bill embodied a number of recommendations which are already familiar to the reader. Governor Carpenter had presented some of them in his messages to the General Assembly. The maximum rate of penalty on delinquent taxes was to be two per cent a month.<sup>262</sup> Counties were to be held directly responsible for the State tax — the same to be paid in four quarterly installments. The valuation of counties was not to be altered by the State Board of Equalization. Finally, all penalties for delinquent taxes, additional assessments, and peddlers' licenses were to be given to the counties.<sup>263</sup> The bill, however, met with much opposition and was easily defeated by a large majority. The State of Iowa was not ready for a measure of this kind. Tax reform was proceeding on an evolutionary basis.

The title of this chapter, *Administrative Failure of the General Property Tax*, should not be taken to mean that this tax has been an absolute failure. Through the levy of high and discriminating rates the necessary revenue for State and local government has been secured. On the other hand, it should be recognized that a perfect system of taxation is impossible. But when the history of taxation in Iowa is carefully and judiciously weighed, it may be safely alleged that the general property tax from the standpoint of administration has been a failure because the revenue laws have not been able to guarantee even relative justice between in-

dividuals or local units of government under the changed industrial conditions of the last generation. Fiscal authorities are practically unanimous in their verdict that the general property tax, as that term is usually defined and understood, has become an anachronism.

The people of Iowa have slowly realized this condition and have endeavored by legislation to prevent it. Since the first revenue act was passed in 1839 — a period of seventy years — an effort has been made to create an efficient system of taxation by the enactment of law. The whole body of this fiscal legislation may be conveniently classified under two heads: first, laws establishing general machinery for the levy, assessment, equalization, and collection of taxes; second, laws relating to specific problems in taxation. In this connection it is not possible to give absolute dates. It has already been noted that the main outlines of our general revenue system are to be found in the *Code of 1851*.<sup>264</sup> When the *Code of 1873* and more especially the semi-annual tax law of 1884 are reached we are brought face to face with what is practically the fiscal system, State, county, and local, of to-day.

On the other hand, laws relating to specific problems in taxation are also to be found incorporated in the *Code of 1851*.<sup>265</sup> During the generation following the enactment of the *Code of 1851*, while many laws were being enacted to perfect the general machinery of taxation, other laws were passed creating special methods for the taxation of railroads, insurance, telegraph, express companies, etc.<sup>266</sup> By 1884 the pendulum of statutory tax reform, so-called, had shifted from general to special legislation. Nearly half a century of the former had failed to evolve a satisfactory scheme of general property taxation. The remaining chapters of the narrative dealing with some special problems in taxation will present a different type of statutory reform.

The general narrative from 1884 to the present time

(1910) is therefore necessarily brief.<sup>267</sup> In the *Report of the Auditor of State* for 1885 the recommendation that the counties be made responsible to the State for the full amount of State tax levied on the equalized total value of the property in each county was again offered. Concerning the enforcement of tax laws, this pertinent suggestion is noted: "What is wanted is not so much penalty for non-performance of the required duties, as direct provisions for enforcing performance thereof."<sup>268</sup> Tables are presented to show the low and discriminating assessment of real estate and especially of personal property."<sup>269</sup> It is further maintained that such a system of discrimination and low valuations "cannot be justified on any grounds consistent with the welfare and credit of the state and its various subdivisions."<sup>270</sup>

Governor Sherman in his second biennial message speaks of the gratifying success of semi-annual payment of taxes and makes a strong plea for uniform assessments; but he did not believe with the Auditor that the State Board of Equalization can have that direct and intimate knowledge of all the counties of the State necessary to the proper equalization of live stock values. The Governor thought that "if the expenses of the State government could be so adjusted that each county might assess itself without regard to valuations in those adjoining, a happy result would be attained."<sup>271</sup> In order to attain this "happy result" two somewhat radical plans are suggested: first, a division of the State expenses among the counties on the basis of population; or second, "levying a tax directly upon the railroad property as assessed by the Executive Council, which rate should not exceed the average tax levies throughout the State for the preceding year, and requiring the same to be paid into the State Treasury."<sup>272</sup>

The latter alternative is especially important as being the most direct reference made by an Iowa Governor to the



question of local option in fiscal affairs and the separation of revenue sources.<sup>273</sup> Judged from the standpoint of revenue reform the second message of Governor Sherman is an able, constructive document.<sup>274</sup> Manifestly the suggestion that State expenses be apportioned among the counties on a basis of population should not be taken seriously, but the alternative plan of taxing railroads for the benefit of the State treasury at the general average rate levied on property throughout the State has much to commend it. In fact this system was applied to telephone, and telegraph companies until rendered impossible by an adverse decision of the Supreme Court.<sup>275</sup>

During the session of 1886 there was much discussion concerning homestead exemption and the taxation of monies and credits which resulted, however, in no legislation of importance. Two years later the executive documents are once more filled with complaints regarding low discriminating assessments.

Writing in 1887 the Auditor of State comments: "Under the present system of assessing property, the State of Iowa suffers in comparison with other States, both as to valuation of property and rate of taxation; and at the same time the tax payer is not benefitted, as an increase in assessment would result in a corresponding decrease in rate of taxation."<sup>276</sup>

Governor Larrabee, in his message of January 11, 1888, after a few clear statements concerning undervaluation and the full responsibility of counties for State taxes, called attention to the bill pending before Congress for refunding the direct tax levied during the Civil War.<sup>277</sup> Under the act of Congress approved August 5, 1861, Iowa had paid over to the United States \$384,274.80—which amount would be refunded. The Governor recommended that the General Assembly memorialize Congress for the speedy passage of the bill, which he said should become a law.<sup>278</sup> During the session of 1888 the Gatch homestead exemption bill and the

taxation of mortgages and credits were also considered.

In his second biennial message, Governor Larrabee pointed out that "personal property continues to escape bearing its share of the public burdens. While the assessed value of real estate has during the last twenty years been advanced about 70 per cent, that of personalty has increased only 44 per cent during the same period. It is true that personal property, when assessed at all, is ordinarily rated higher in proportion to its commercial value than real estate; yet on the other hand so much of it escapes the assessor that the total assessed value scarcely equals one-fifth of the true value of the personal property held in the State. An effort should be made to remedy this inequality."<sup>279</sup> The meaning of this statement will be made clear by a careful examination of tables presented in the following chapter.<sup>280</sup>

When the Twenty-third General Assembly met in 1890 the hard times which were to terminate in the crisis of 1893 had already arrived. The questions of homestead exemption and mortgage taxation demanded urgent consideration. There was also much talk of reducing the levy for regular appropriations to two mills — indeed, a resolution to do this was rushed through the House,<sup>281</sup> but failed to pass the Senate. In fact a bill quite different in character was enacted into law. In addition to the regular levy made by the Executive Council, a special one-half mill tax levy was ordered for the purpose of properly meeting the necessary requirements of the several State institutions.<sup>282</sup>

Two years later (1892) the popular demand for revenue reform could no longer be ignored. The hard times had much to do with causing the people to become dissatisfied with their system of taxation. Governor Boies, a Democrat, spoke in the most positive terms on the subject of revenue in his inaugural of January 20, 1892. The tax laws, he said, were universally ignored with reference to both real

and personal property. If property was to be assessed at a fraction of its value, some uniform rule ought to be established on the subject. It was a matter of regret that a custom "as variable as the whims of men and sometimes as destitute of the spirit of fairness" had taken the place of law. The Governor believed, however, that the subject was too large and complex to be judiciously considered during one brief session of the General Assembly, and so he recommended the appointment of a commission "clothed with power to perfect a bill and report it to some future session of that body for final action thereon".<sup>283</sup>

This State paper will be remembered especially because of the recommendation for a tax commission. It is the first time an Iowa Governor had made such a definite recommendation. Much credit is due Governor Boies for being able so clearly to understand and boldly announce the fact that the subject of tax reform is too large to be wisely adjusted in one session of the General Assembly. At this time the whole subject of taxation, especially from the standpoint of assessment, was thoroughly discussed, not only in executive documents but also in the newspapers and other publications. The low and grossly unequal valuation of property by local assessors was the leading point of attack. Every one could diagnose the case but no one seemed to be able to furnish an efficient remedy. To illustrate the humorous, if not almost pathetic, absence of a constructive program, the Auditor of State was able to see but one practical remedy: "the lowering of the maximum rate of taxation to such a degree as will force the raising of values to their proper position in order to be able to realize the necessary amount of revenue for county purposes."<sup>284</sup>

The period under consideration was one of criticism and negation, not one of construction. A well settled conviction prevailed throughout the State that there was something radically wrong in the assessment of property. Many think-



ing men were of the opinion that assessors and boards of equalization were not doing their duties as prescribed by law. In fact these officials were frequently accused of no less crime than that of perjury.<sup>285</sup> The laws, it was claimed, were specific and at the same time both just and reasonable, but their administration by assessors and boards of equalization had become a meaningless sham.

Complying with the recommendation of Governor Boies, and in response to the urgent demands of the people for relief from what they considered an unjust system of taxation, an act was passed to provide a commission to investigate the revenue laws and report necessary changes.<sup>286</sup> Briefly stated, the act provided for a temporary commission of four members named by the Executive Council. The members of this commission were to receive as compensation five dollars a day for not more than thirty days, together with necessary traveling expenses; and not more than two members of the commission were to be of the same political party. It was made the duty of the commission "to studiously and carefully examine the revenue and taxation laws of the state and report necessary and desirable changes to the Twenty-fifth General Assembly."<sup>287</sup>

How this commission and the things it was expected to accomplish were judged by the majority of thinking men is perhaps most clearly stated in a contemporary editorial. "Senator Harsh", wrote the editor, "has introduced a good bill. It is for the revision of the assessment laws of the state. The bill creates a board of four, two members from each party, who shall take up the problem and prepare a report before the meeting of the Twenty-fourth [fifth] General Assembly. They are to give the matter thorough study and to prepare a system that shall overcome the many inequalities that now exist. The need for a revision of this kind has long been apparent. The undertaking is so great that it can only be done by a non-partisan commission, a

commission of business men rather than politicians. At the present time there is a great deal of property that is not assessed at all and the rest is assessed all the way from about 3 per cent of its real value to 40 or 50 per cent. The way to meet the situation is to provide for uniform assessment. Iowa suffers in comparison with other states because the valuation is low, and the rate of taxation accordingly high. The state's business will make a better showing if the assessment is raised all around and the rate of taxation reduced accordingly. All these details will suggest themselves to a commission of business men proposed in the Harsh bill, which ought to be passed."<sup>288</sup>

The tax commissioners named by the Executive Council were: Alfred N. Poyneer, Charles E. Whiting, Charles A. Clark, and August Post. Later Edgar C. Lane of Guthrie Center was appointed to fill the vacancy occasioned by the resignation of Mr. Poyneer. The commission at once began their thirty days task of investigation and the preparation of a bill to remodel the system of taxation. Under the circumstances one is not surprised to learn that "in entering upon the work assigned the commission, its members soon realized that the time contemplated in the legislative act, to be given to the work, was quite inadequate for its accomplishment in a satisfactory manner."<sup>289</sup>

From the standpoint of the general narrative, the report and accompanying bill submitted by the commission may be briefly presented.<sup>290</sup> According to the proposed bill local assessors were still to be elected biennially in townships, cities, and towns. But in addition to the elected assessors, it was provided that the board of supervisors of each county should appoint two associate assessors for each assessment district in the county. These associate assessors were to assist in the valuation of real estate and aid in equalizing values. The bill further provided that real property be listed and valued in the year 1895 and

every fifth year thereafter<sup>291</sup> — which meant an important change from the system of biennial valuation.

The report, however, is most vital and instructive from the standpoint of the proper method of valuation. The commission was unanimously of the opinion that nothing short of the actual cash value of property should be made a basis of taxation. According to the terms of the bill, cash value meant ordinary sale value upon the usual terms of credit, not what property would bring at a forced sale.<sup>292</sup>

Some changes in equalization were suggested. The county board of equalization, however, was to remain practically the same, but the local boards of equalization were to be composed of the assessors and associate assessors rather than of the trustees or City Council. For example, a township board of equalization would consist of an elected assessor and two appointed associate assessors. The chairman of each local board of assessors was required to be present at the meeting of the county board of equalization. The commission believed that this plan would establish a more unified administration and give better results. The State Board of Equalization was still to consist of the Executive Council—except that in every fifth year for the purpose of real estate valuation it was provided that the Executive Council “shall, on or before February first, appoint one qualified elector from each congressional district in the state, who shall sit with and act as a member of said board on all matters of equalization for that year.”<sup>293</sup>

The Auditor of State in his report of 1893, and Governor Boies in his second biennial message, spoke favorably of the report of the revenue commission. They refer especially to the recommendation concerning the assessment of property at its fair cash value. The Auditor thought that “the recommendations of the tax commission relating to the assessment of real estate and personal property at its true cash value, and the reduction of the maximum rate of taxa-



tion for State and county revenue are valuable, timely, just and wise, and", said he, "I believe the only practicable and feasible plan to correct and remedy as far as possible the evils of unequal assessment of property and unequal and unjust burdens of taxation."<sup>294</sup>

The bill as framed by the commission was presented to the General Assembly. In the Senate bills were introduced by Senator Harsh and Senator Bishop which were quite similar to the one prepared by the commission. The result was the final introduction of a substitute bill by the Committee on Ways and Means of which Senator Harsh was Chairman. The important changes made in the committee bill may best be explained in the words of Senator Harsh. "The most important changes", he says, "consist in the committee's failing to approve the commission's recommendations that two additional assessors be appointed in each assessment district to assist the elected assessor; that an elector from each Congressional District be appointed to assist the executive council in equalizing and assessing as by law required, also that assessment of real estate be made only once every five years."<sup>295</sup> On the other hand, the committee adopted the recommendation of the commission for assessing property at its fair cash value.

The measure as finally presented should be considered as representing the combined work of the non-partisan tax commission, the county auditors and treasurers of the State, many citizens who prepared and presented papers, and finally, the Committee on Ways and Means of the Senate.<sup>296</sup> The chief concern of all seemed to be the desire to find some practicable method of preventing the gross undervaluation of property,<sup>297</sup> and consequent inequalities of assessment. The fact was generally recognized that one man was paying taxes on twenty-five per cent of the value of his property, a second on fifty per cent, and a third on a full market valuation. Many intelligent men were honest

in their efforts to find some definite solution to this problem, and they rightly believed that no solution was possible which did not contemplate assessment at full cash value.

The General Assembly, however, was not ready for what appeared to be so large a measure of law enforcement in fiscal matters. The committee bill was not even made a special order in the Senate, but was indefinitely postponed.<sup>298</sup>

In assigning reasons for the complete defeat of the bill it was stated in an editorial that "the farm lands of Iowa were assessed in 1893 at an average of \$8.44 per acre, making a total assessment in round numbers of about two hundred and ninety-three and a quarter millions of dollars. The total assessment of town lots was in round numbers one hundred and four million dollars, and the total personal property assessments, in round numbers, one hundred and thirteen millions. The total assessed value of all the property of the state was in round numbers, five hundred and sixty-six millions of dollars. It is instructive to note the gradual increase and growth of property assessments in Iowa as shown by the last biennial report of the auditor of state. In 1870, the total assessed value of all property was, in round numbers, two hundred and ninety-four millions; in 1880, four hundred and ten millions; in 1890, five hundred and twenty-four millions. Auditor McCarthy in his report for 1893, page 7, says:

" 'It is my opinion that the average assessment of real estate and personal property in this state for many years does not exceed 25 per cent of its actual cash value'.

"It is now proposed", continues the editor, "by the new revenue bill to raise the assessment to its actual cash value which will make the snug round sum of two thousand two hundred and sixty-six millions. The farms are now assessed at two hundred and ninety-three millions and the live stock which belongs mainly to farmers, at fifty-two millions; this

makes a total assessment upon the farms and their stock of three hundred and forty-five millions, leaving the assessment of only about two hundred and twenty million against all other classes. If the assessment shall be raised as proposed by the new revenue bill, the total assessment of the farmers' property in the state will be one thousand three hundred and eighty millions, and the property of all others eight hundred and eighty millions. With the present assessed value there is no trouble for the state to raise all taxes necessary to carry on the state and county governments by moderate rate of taxation. It is the towns and cities which want to raise more money. The total assessment of town lots is in round numbers one hundred and four million. The rate of taxation in many of the cities is as high as 5 per cent of the assessed value including special levies authorized by law. The tax eaters of cities, of course, want to increase the assessment. We think it against the best interests of the state and of the cities to change the present tax laws." <sup>209</sup>

Other editorials appeared in which the subject was further discussed and the proposed bill assailed with vigorous words rather than with clear arguments. Some startling accusations and admissions were made. More than two-thirds of the county and State taxes, it was claimed, were being paid by the farmers and the railroads. Assess property at its full cash value and the farmers alone will pay more than two-thirds for the reason that city valuations will not be proportionally increased. It was admitted that farms in many cases were being assessed at only one-fifth of their value, and that for years property had been assessed at from one-fourth to one-third of its value. "This", one writer said, "is in accordance with the universal custom of all the states for the last one hundred years, except three or four that are now trying the full value plan." Moreover, an effort was made to justify this "universal custom", or



rather universal disregard of law, by holding that such a policy was necessary in order to prevent the people from being over-taxed, especially in the cities where the rate was frequently as high as five or six per cent. Finally it was said that "if this bill passes it will not be three years—certainly not five—before thirty-six millions of dollars of taxes will be gathered from our people every year, and extravagance and corruption will then demand some further removal of the limit of taxation for the further plundering the tax payers."<sup>300</sup>

Two years later the same appeal was made for relief from an unjust system of taxation. "I am inclined to the opinion", writes the Auditor, "that future generations will continue to ask why the great state of Iowa has such a small valuation, and such an enforced high rate of taxation, and the stranger within our borders will continue to compare us unfavorably with other states that are not the peers of our own state."<sup>301</sup>

In January, 1896, Governor Jackson presented a strong message from the standpoint of revenue reform. He pointed out that the per capita expense of certain State governments was as follows: New York, \$2.06; Pennsylvania, \$1.06; Ohio, \$1.04; Michigan, \$1.08; Minnesota, \$1.87; and Iowa \$.89. This, in his opinion, was a bad showing for Iowa. The Governor also makes a clear statement of the fact that the assessment laws were universally disregarded, and that in fact millions of dollars worth of property was evading taxation. In conclusion he says that in his judgment "no other issue is of such vital importance to the progress and welfare of Iowa as that of raising the necessary revenue for the proper maintainance of our state by a fair and equitable system of taxation."<sup>302</sup>

Despite a strong popular demand for fiscal reform no general legislation of importance was enacted at the regular session of the Twenty-sixth General Assembly in 1896. At

the extra session, however, which enacted the *Code of 1897*, one or two changes of a general nature were introduced.<sup>303</sup> The sections relating to the powers and duties of assessors were made somewhat more specific, the purpose being to secure a more equitable tax levy and a more complete listing, especially of personal property, for taxation. Perhaps the most important change of a general nature made by the *Code of 1897* was that of placing the assessed value at twenty-five per cent of the actual value. "All property subject to taxation", reads the section in point, "shall be valued at its actual value, which shall be entered opposite each item, and shall be assessed at twenty-five per cent. of such actual value. Such assessed value shall be entered in a separate column opposite each item, and is to be taken and considered as the taxable value of such property, and the value at which it shall be listed and upon which the levy shall be made. Actual value of property as used in this chapter shall mean its value in the market in the ordinary course of trade."<sup>304</sup>

In other words, two solutions of the fiscal problem had been presented to the General Assembly: taxation at full cash value, which had always been both the spirit and letter of the law; or, taxation at a fractional part of said value. The latter alternative was chosen. Up to this time the administrative failure of the general property tax had merely been admitted. It was now made a part of the *Code of 1897*.<sup>305</sup>

Aside from these changes, and one or two others of minor significance, the general machinery for the levy, assessment, equalization, and collection of taxes was the same in 1897 as in 1873.<sup>306</sup> Under both codes the tax levy was made by the Executive Council and county boards of supervisors, within certain limitations specified by the General Assembly; and the assessment was made by local assessors.<sup>307</sup> In 1897 as in 1873 there was a local, county, and State board of

equalization, constituted in the same way and with the same general powers. After a quarter of a century of recommendation, suggestion, agitation, and amendment the defects of the tax system were more apparent in 1897 than in 1873. An examination of the statistical tables presented in the following chapter clearly reveals this fact. Indeed, in 1897 the State was even further removed from a real solution of the problem.

Since 1897 almost nothing has been accomplished which may logically be included in this general narrative. Primary election, two cent fares, the regulation of the liquor traffic, and a number of other problems have occupied the stage of political action. Governor Cummins during his long and strenuous administration was busy with these problems and made no serious effort to bring about a general revision of the revenue laws. His predecessor, Governor Shaw, being inclined to conservatism and a "business administration", believed in letting well enough alone.

But during all this time a minority was demanding reform. Nor has the decade passed without a final effort to secure a more efficient administration of the tax laws. The year 1900 witnessed the establishment of the tax ferret system—largely for the purpose of securing a more complete listing of moneys and credits—the history of which will appear in a later chapter. Two efforts have also been made to create a tax commission. In 1907 Senator Jackson of Sioux City introduced a joint resolution providing for the appointment of a commission of nine persons to inquire into the subject of assessment and taxation for State and local purposes and report the results of their investigation and bills relating thereto to the next General Assembly. The resolution, however, did not prevail.<sup>308</sup>

In 1909 a second effort was made to create a revenue commission. In the Senate a bill was introduced by Senator Arthur C. Savage providing for a commission of five per-



sons to be appointed by the Governor.<sup>309</sup> This bill found its way to the Committee on Appropriations where it slumbered for some time, pending the consideration of the mortgage tax bills.<sup>310</sup> In the House of Representatives Mr. William L. Harding introduced a bill for the same purpose.<sup>311</sup> "There is hereby created a legislative tax commission consisting of five members, two of whom shall be members of the House of Representatives and appointed by the Speaker, one of whom shall be a member of the Senate and appointed by the President of the Senate, and two of whom shall be appointed by the Governor of the State," reads the opening section of Mr. Harding's bill. This bill also slumbered during a large part of the session, pending action on the mortgage tax bills. After a number of unfortunate experiences it was finally brought out on a minority report and passed the House.<sup>312</sup> Upon reaching the Senate it was referred to the Committee on Appropriations, and in the scramble at the close of the session failed to be reported.<sup>313</sup>

A bill relating to the collection of delinquent personal property taxes was, however, passed by the Thirty-third General Assembly. Boards of supervisors were given power in their discretion to authorize the appointment by the treasurer of one or more collectors to assist in the collection of delinquent personal property taxes, the compensation for said work not to exceed ten per cent of the amount collected.<sup>314</sup>

By way of review, it should be noted that the narrative thus far has dealt merely with the general property tax and the machinery of assessment relative thereto. This method of treatment would seem to be logical and scientific for the reason that general property taxation not only forms the most important part of our revenue system but is indeed the very foundation of that system. Aside from the statis-

tical study made in the following chapter, the remainder of the volume is taken up with a number of special problems in taxation all of which, however, are directly or indirectly connected with the general property tax.<sup>315</sup> For example, the taxation of moneys and credits, forms of personal property, is a subject large and important enough for separate study.

The general narrative since 1873 briefly stated may be said to embrace the following points: first, the earnest effort to secure more efficient collection of taxes resulting in the payment of the same semi-annually, the tax ferret law, and the law relative to the collection of delinquent personal property taxes; second, the growing recognition of inefficient assessment in Iowa, especially the fact that this sham is embodied in a statutory subterfuge, the twenty-five per cent provision of the *Code of 1897*; and third, the tax commission of 1893, the report of which was repudiated by the General Assembly, and the efforts to provide a temporary commission in 1907 and 1909. It would seem that nearly three generations of fiscal history ought to make the necessity first, of a temporary, and later a permanent tax commission clear to the people of Iowa. Only under the constant and intelligent leadership of such a commission is it possible even to approach a solution of the many difficult problems incident to the administrative failure of the general property tax. The great industrial centralization of the present day with its endless multiplicity of intangible values must necessarily be accompanied by some measure of centralization in our system of State and local administration.

## V

### STATISTICAL STUDY OF THE GENERAL PROPERTY TAX

In the preceding chapters a narrative, historical and critical, of the general property tax of Iowa has been presented. The efforts to establish a revenue system by legislation have been reviewed; and from the account given the reader may judge to what extent these efforts have succeeded, or, what is more to the point, to what extent they have failed. The constantly amended laws, revealing the planless and shifting policies by which it was hoped that fiscal machinery might be adapted to the rapidly changing conditions of our social and industrial life, have been examined chronologically. The study of these phenomena, however, would be both incomplete and indefinite were the narrative not supplemented by a statistical abstract showing the amount of taxes collected, and, what is far more important, the efficiency of the assessment system. It will, therefore, be the purpose of this chapter to present a brief statistical study of the actual assessment and collection of taxes in Iowa. Without this data it is quite impossible for the reader to judge fairly as to the efficiency or inefficiency of the revenue system.

Table I is a condensed statement showing receipts and disbursements of general revenue at the State Treasury of Iowa since 1846. A glance at this table reveals the fiscal growth of our State government from the beginning of its history. The biennial period 1846-48 shows a State levy of \$76,150.84, a total available revenue of \$76,152.23, and total expenditures of \$74,757.83, leaving a balance in the treasury



TABLE I31c  
SHOWING RECEIPTS AND DISBURSEMENTS OF GENERAL REVENUE AT THE STATE TREASURY  
OF IOWA SINCE 1846

*Biennial Periods	Treasury Balances, beginning of period	State Levy	Special Levies Charitable Institutions	Total Taxes from Counties	Insurance Taxes	Telegraph Taxes	Telephone Taxes
1846-48.....	.....	\$ 76,150.84	Not Separated	\$ 76,150.84	.....	.....	.....
1848-50.....	\$ 1,394.40	72,563.83	.....	72,563.83	.....	.....	.....
1850-52.....	1.39	139,681.69	.....	139,681.69	.....	.....	.....
1852-54.....	8,051.59	115,498.15	.....	115,498.15	.....	.....	.....
1854-56.....	15,522.54	210,398.86	.....	210,398.86	.....	.....	.....
1857.....	25,226.83	217,262.70	.....	217,262.70	.....	.....	.....
1857-59.....	13,683.30	763,350.57	.....	763,350.57	.....	.....	.....
1859-61.....	25,630.74	578,759.91	.....	578,759.91	.....	.....	.....
1861-63.....	28,039.13	861,260.66	.....	861,260.66	.....	.....	.....
1863-65.....	199,758.24	869,153.30	.....	869,153.30	.....	.....	.....
1865-67.....	336,093.47	1,067,819.18	.....	1,067,819.18	.....	.....	.....
1867-69.....	82,114.48	1,742,793.55	.....	1,742,793.55	\$ 14,920.09	.....	.....
1869-71.....	269,160.16	1,702,842.04	.....	1,702,842.04	43,547.96	.....	.....
1871-73.....	81,740.84	1,941,878.25	.....	1,941,878.25	76,721.83	.....	.....
1873-75.....	31,217.66	1,741,809.68	.....	1,741,809.68	105,908.17	.....	.....
1875-77.....	3,114.66	1,790,319.03	.....	1,790,319.03	109,577.79	.....	.....
1877-79.....	25.66	1,947,051.34	.....	1,947,051.34	85,948.88	\$ 2,887.80	.....
1879-81.....	.....	1,928,849.32	.....	1,928,849.32	88,410.48	7,388.48	.....
1881-83.....	91,860.51	2,149,379.12	.....	2,149,379.12	109,087.43	9,778.32	.....
1883-85.....	71,559.52	2,201,635.19	.....	2,201,635.19	125,471.71	16,811.06	.....
1885-87.....	147,151.94	2,389,877.76	\$ 492,301.51	2,882,179.27	140,355.23	19,281.47	\$ 3,273.40
1887-89.....	20,393.95	2,383,517.45	535,863.88	2,919,381.33	149,288.48	25,500.38	9,641.19
1889-91.....	5,181.67	2,536,791.77	533,406.19	3,120,287.96	174,610.36	29,960.81	9,720.00
1891-93.....	488,058.95	2,177,792.47	632,295.27	2,830,087.74	224,302.56	30,624.94	9,780.00
1893-95.....	412,981.45	2,303,403.10	711,228.70	3,014,631.80	241,123.05	30,184.68	9,780.00

\*The biennial periods vary as to date of termination: That for 1846-48 closes November 30; the periods from 1848 to 1881 end on dates ranging from October 31 to November 6, without any apparent reason; the period of 1881-83 begins December 1, 1881, and ends June 30, 1883; from 1883 down the biennial periods end on June 30.

TABLE I—CONTINUED  
SHOWING RECEIPTS AND DISBURSEMENTS OF GENERAL REVENUE AT THE STATE TREASURY  
OF IOWA SINCE 1846

Biennial Periods	Treasury Balances, beginning of period	State Levy	Special Levies Charitable Institutions	Total Taxes from Counties	Insurance Taxes	Telegraph Taxes	Telephone Taxes
1895-97.....	312,554.41	2,787,709.06	799,839.58	3,587,548.04	246,565.84	30,538.39	10,488.00
1897-99.....	36,672.96	3,245,713.85	810,063.90	4,055,707.75	304,468.09	40,213.89	18,734.88
1899-1901.....	445,002.37	3,148,280.84	791,042.28	3,939,323.12	352,185.22	20,034.33	14,135.50
1901-03.....	1,143,888.17	3,316,137.70	872,654.38	4,188,812.08	475,494.11	.....	.....
1903-05.....	1,570,478.88	3,847,600.04	1,077,613.08	4,925,213.12	555,172.28	.....	.....
1905-06.....	1,375,032.27	1,980,337.50	500,981.76	2,481,369.26	299,909.57	.....	.....
1906-08.....	1,074,788.31	4,054,876.35	1,249,574.25	5,304,450.60	630,443.07	.....	.....

Biennial Periods	Express Taxes	Fees	Miscellaneous	Total Corporate and Miscellaneous Taxes	Total Receipts	Total Available Revenues	Total Disbursements
1846-48.....	.....	.....	.....	.....	\$ 76,150.84	\$ 76,152.23	\$ 74,757.83
1848-50.....	.....	.....	\$ 16,486.10	\$ 16,486.10	89,049.93	90,444.33	90,442.94
1850-52.....	.....	.....	.....	.....	139,681.69	139,683.08	131,631.49
1852-54.....	.....	.....	10,515.70	10,515.70	126,013.85	134,065.44	118,542.90
1854-56.....	.....	.....	153,463.07	53,463.07	263,861.93	279,394.47	254,457.64
1857.....	.....	.....	.....	.....	217,262.70	242,489.53	228,806.23
1857-59.....	.....	.....	.....	.....	763,300.57	777,033.87	751,463.13
1859-61.....	.....	.....	.....	.....	578,759.91	604,390.65	576,351.52
1861-63.....	.....	.....	.....	.....	861,280.66	889,299.79	689,541.55
1863-65.....	.....	.....	.....	.....	969,153.30	1,068,911.54	732,818.07
1865-67.....	.....	.....	.....	.....	1,067,819.18	1,403,912.65	1,321,798.17

†\$40,000 borrowed from school board.

TABLE I—CONTINUED

Biennial Periods	Express Taxes	Fees	Miscellaneous	Total Corporate and Miscellaneous Taxes	Total Receipts	Total Available Revenues	Total Disbursements
1867-69	.....	.....	.....	24,920.00	1,757,713.64	1,839,828.12	1,553,607.96
1869-71	.....	23,132.91	.....	66,690.87	1,769,522.91	2,055,683.07	1,973,942.23
1871-73	.....	34,564.37	77,190.05	138,465.65	2,130,343.90	2,112,084.74	2,180,867.08
1873-75	.....	36,805.24	19,007.72	161,721.13	1,903,530.81	1,934,748.47	1,931,683.81
1875-77	.....	40,596.84	7,608.83	157,783.46	1,948,102.49	1,951,217.15	1,951,190.59
1877-79	.....	43,587.91	21,944.28	154,368.87	2,101,420.21	2,101,445.77	2,101,445.77
1879-81	.....	51,431.84	20,955.49	168,186.29	2,097,035.61	2,097,035.61	2,005,185.10
1881-83	.....	62,569.71	43,991.69	225,427.15	2,374,806.27	2,466,656.78	2,395,097.26
1883-85	.....	61,068.47	56,930.52	160,281.76	2,461,916.95	2,533,476.47	2,386,324.53
1885-87	.....	67,407.36	61,383.63	191,706.10	3,173,885.37	3,321,037.31	3,300,643.36
1887-89	.....	74,023.16	63,890.91	322,344.12	3,241,725.45	3,262,119.40	3,256,937.73
1889-91	.....	78,760.19	76,178.15	369,229.51	3,508,822.41	3,514,004.08	3,025,945.13
1891-93	.....	95,746.52	440,248.63	850,702.65	3,679,790.39	4,167,849.34	3,754,867.89
1893-95	.....	101,155.00	122,642.31	504,885.64	3,519,517.44	3,932,498.89	3,619,644.48
1895-97	.....	121,749.37	130,590.11	539,931.71	4,127,480.35	4,340,334.75	4,392,573.08
1897-99	\$ 12,179.71	222,399.24	425,639.73	1,023,635.54	5,079,403.29	5,116,076.25	4,671,073.88
1899-01	8,804.71	281,875.36	473,721.30	1,180,736.42	5,120,059.54	5,565,061.91	4,421,173.74
1901-03	.....	481,238.12	*1,032,331.19	1,989,043.42	6,177,855.50	7,321,743.67	5,751,264.79
1903-05	.....	405,984.87	713,977.44	1,675,134.59	6,600,347.71	8,170,826.59	6,795,794.32
1905-06	.....	274,107.96	410,763.57	984,781.40	3,466,150.66	4,841,182.93	3,766,394.62
1906-08	.....	588,955.08	723,229.26	1,942,627.41	7,247,078.01	8,321,866.32	7,677,677.15

‡Includes the direct war tax refund April, 1892, \$384,274.80.

\*Includes refund from U. S. government of \$497,189.55.



of \$1,394.40. The revenue rapidly increases until we find in the biennium 1857-1859, following the adoption of the Constitution of 1857, a State levy of \$763,350.57—more than ten times as large as that levied in the first biennium. The total revenues and total disbursements are found to represent about the same ratio of increase. In other words, during the short space of a decade the revenues of Iowa had increased nearly tenfold. Those who complain of how taxes have increased in recent years, may find some negative comfort in this fact.

The following biennium shows a slight decrease, due in a measure, no doubt, to the general depression following the crisis of 1857. By the biennium 1865-1867 the State levy passed the million dollar mark, never to return again. One notes the phenomenal increase from \$1,067,819.18 to \$1,742,793.55 during the period from 1865 to 1869, which is indicative of the return of prosperity following the war. This increase is nearly equal to the total State levy for the biennium 1857-1859, and in fact is more than the levy for the following biennium. Beginning with 1870 and reading down the column entitled "State Levy" there is noted a gradual and almost constant increase for two decades. A substantial falling off during the crisis of 1893 is apparent. The decade following the biennium 1895-1897 represents with but one exception a constant increase until in the last biennium the "State Levy" reached the sum of \$4,054,876.35. Adding "Special Levies", the amount was \$5,304,450.60—representing the total receipts from counties.

To present these facts in another form, it is apparent that the increase of the State levy during the forty years following the biennium 1865-1867 was fourfold, and adding "Special Levies" nearly fivefold, while the increase during the first decade of our history as a State was nearly tenfold. To those whose claim to statesmanship consists in advocating the pruning down of requests for necessary

appropriations this comparison contains much food for thought. In this connection it might not be out of place to suggest that the real pain is caused not by high State taxes, but, as the next table will show, by vastly higher local taxes.

It should be noted, moreover, that the \$1,249,574.25 for the biennium 1906-1908 represents special levies for the insane, blind, deaf, feeble minded, orphans' home, and inebriates, as provided for by special statutes. Beginning with 1868 insurance taxes have been paid into the State treasury.<sup>317</sup> These taxes increased from only \$14,920.09 in 1867-1869 to the large sum of \$630,443.07 in 1906-1908. The table also reveals the fact that for some years telephone, telegraph, and express companies paid their taxes directly into the State treasury.<sup>318</sup> No data, however, appears after 1900—which is due to an adverse decision of the Supreme Court, followed by a new law taxing such corporations in the local districts of Iowa on a pro rata mileage basis, the same as railroads.<sup>319</sup>

The revenue secured from fees, which became an important item about 1870, reached the large sum of \$588,955.08 in the last biennium as collected by various State inspectors, boards, and other officials. Such fees are not taxes in the ordinary sense and therefore will not be discussed in this connection. Nor does the column headed "Miscellaneous" represent taxes in any large measure. It does include, however, the collateral inheritance tax which will be considered in a separate chapter.

In conclusion, attention is directed to the breaking away from the ordinary State levy, which began about 1870. In the biennium 1867-1869 the State levy was \$1,742,793.55, and the total receipts were \$1,757,713.64, or practically the same. In marked contrast with this, it is seen that in the last biennial period there was an ordinary State levy of \$4,054,876.35; and there were total receipts of \$7,247,078.01, or nearly double the amount. The force of this comparison

will be partially explained in the chapters below dealing with specific problems in taxation.<sup>320</sup>

Table II is a statement showing the total revenues of Iowa, State and local, for the period from 1873 to 1907. The statement includes the revenue derived from ordinary taxes alone, not including fees. By comparing the data herein presented with that given in the previous table, one is able to judge as to the relative importance of State and local revenues.

TABLE II <sup>321</sup>  
TOTAL REVENUES OF IOWA  
1873-1907

YEAR	AMOUNT	YEAR	AMOUNT
1873.....	\$ 9,360,451.79	1891.....	\$16,043,081.44
1874.....	9,547,408.07	1892.....	16,889,671.34
1875.....	10,288,721.77	1893.....	18,297,497.54
1876.....	10,699,762.39	1894.....	18,497,483.75
1877.....	10,561,694.89	1895.....	18,785,907.49
1878.....	10,763,602.57	1896.....	18,584,429.67
1879.....	10,146,041.04	1897.....	18,353,994.81
1880.....	10,457,982.14	1898.....	18,692,480.60
1881.....	11,183,576.21	1899.....	18,891,742.78
1882.....	12,201,493.69	1900.....	19,726,789.80
1883.....	13,261,251.27	1901.....	20,600,044.23
1884.....	13,978,912.62	1902.....	22,542,580.45
1885.....	14,430,547.40	1903.....	25,657,913.58
1886.....	14,953,060.65	1904.....	25,693,543.33
1887.....	14,278,817.31	1905.....	26,061,977.03
1888.....	14,732,286.34	1906.....	26,333,163.31
1889.....	15,483,328.74	1907.....	27,550,669.84
1890.....	15,563,974.05		

In the biennium 1871-73 the total State levy was only \$1,941,878.25. Assuming that approximately one-half of that sum was for the fiscal year ending 1873, and comparing this amount with the \$9,360,451.79, or total revenue as shown in Table II, it appears that the State revenue represents but little more than one-tenth of the whole. For 1880 there was a State levy of about one million dollars,<sup>322</sup>



as compared with a levy for State and local purposes of \$10,457,982.14 in the same year. The ratio is again about ten to one. In 1885 the total revenue is more than twelve times the State levy; in 1890 about ten times; and finally, in 1907 the ratio remains approximately the same. In 1907 the large sum of \$27,550,669.84 was raised in Iowa by taxes; and of that amount but little more than two and one-half millions was paid into the State treasury. While it should be stated that these comparisons are not exact, they are substantially accurate and represent the true situation.

The conclusions to be drawn from a careful study of Tables I and II are obvious. Local revenues are relatively far more important than State revenues. In fact for every dollar of interest we have in fiscal reform from the standpoint of the State government, we ought to have ten dollars from the standpoint of the local units. We hear much in these later days of the inequalities between counties in the apportionment of State taxes; but we think too little of the far greater and more important inequalities between individuals in the payment of both State and local taxes. The fact is that the bulk of our revenue is levied and expended by the localities; and so, if uniform and efficient assessment is needed for the State, it is far more imperative in the case of towns, townships, cities, and counties.

This fact was perceived and understood a generation ago by Governor Carpenter. Referring to the total amount of taxes levied (\$11,267,562.13 for 1871, and \$10,711,925.49 for 1872) he pointed out that "of these amounts less than one-thirteenth, or, to be exact, \$1,606,716.94, was for State purposes. These are suggestive tables, and worthy of consideration by representatives of the people. They indicate with tolerable clearness 'where the money goes', and prove that taxation is largely — almost entirely — local and self-imposed; and that, when it becomes burdensome, the remedy is at the source of the evil." <sup>323</sup>

A table representing Iowa State budgets for the period from 1873 to 1897, prepared by Mr. John Herriott (at that time Treasurer of State), contains additional data of interest to the student of public finance. (See *Report of Treasurer of State*, 1897, pp. 24, 25.)

"Iowa's state finances", wrote Mr. Herriott, "have become the subject of such spirited public discussion and such interest to the taxpayers that I have had prepared an extended table giving a complete exhibit of the budgets for twenty-four years past, beginning with 1873. The receipts for taxes and their disbursement for appropriations are analyzed and classified, as far as practicable, so that any citizen can see at a glance just how much and from what source the state has obtained the revenue necessary to carry on its governmental machinery and work, and how much and in what direction the people's money has been expended during any fiscal period in the past quarter of a century. The length of time covered represents the life of a political generation and will show quite accurately the financial operations of the State authorized by the representatives of the people and superintended by the officials of her civil service. It is only when we are able to view our state finances in retrospect that we can appreciate the present or anticipate the future. It is only by comparison of the present with the past that we can intelligently discuss the nature and relative importance of the expenditures of to-day. The relative growth in the population, wealth and the functions of government should all be studied and compared.

"The tabular scheme adopted will, I trust, make manifest at sight from what general source every dollar of public money has come and on what general account it has been paid out. Every form of tax is separated and all appropriations of revenue are classified so far as can be from the records of the Treasury Department. Under each heading



are given the biennial and duo decennial increase or decrease of taxes and disbursements or appropriations together with the same for the whole twenty-four years, both the absolute amount in dollars and the percentage of increase or decrease. There will also be found the population and wealth for the twenty-four years for use in comparison and in the last columns at the right of the table will be found the proportion in percentage of all revenues collected from the tax payers in the counties and what has been obtained from corporations and miscellaneous sources; also what has been the percentage of the expenditures appropriated by the Civil Lists; the proportion allotted to State Institutions and what has been absorbed in the Incidental Expenses. It is to be regretted that the taxes received from railroads cannot be separated from the remittances of revenue returned from the counties, but they are indistinguishable from the general receipts. If those inspecting and comparing the several showings of the table will remember the reasons for the discrepancies that exist between the total disbursements and the total appropriations the table will need neither key nor guide.

“Attention should, however, be directed to several striking facts which are brought out in the table. The most remarkable facts are those shown by the comparison of the growth in population, wealth, and the ‘state levy’. Population increased 61 per cent in the twenty-four years and the state tax levy collected in the counties kept about even pace, not quite keeping up, however, reaching 60 per cent; while the wealth of Iowa has mounted up 163 per cent, nearly three times the increase of population or taxes in the same time. The annual per capita tax sustained by the people is to-day but 3 cents greater than it was twenty-four years ago, calculated upon the basis of the state levy, while the per capita taxes measured from the point of view of the total of all taxes shows an increase from 69 cents in 1873



up to 99 cents in 1897. Consequently the increase of 30 cents, as it is not shown in the state levy, must have come from corporations and miscellaneous sources. This is further proved by the percentages of increase for the first twelve years and for the second twelve. The state levy is 26.4 per cent in the first twelve years and 16.6 per cent, nearly one-half less, in the second; whereas there are very marked increases in the revenue from the corporate and miscellaneous sources. Finally, the state levy has increased but 60 per cent and the total taxes have nearly doubled, they being 116.3 per cent greater between 1895-97 than in the fiscal period of 1873-75.

“Part II of the table, giving the appropriations, will prove equally interesting and instructive. The total for the Civil List shows an increase in both the twelve-year periods; and the same is true for the Judiciary and the Legislature. In the latter instance, however, the extra session of the Twenty-sixth General Assembly explains the decided increase in its expense. The decline in the increase of the cost of the state offices is over 86 per cent, i. e. from 101.8 per cent in the first twelve years to 15.5 per cent in the last twelve. The total appropriations for state institutions show an increase in both the twelve year periods. There is a decrease, however, in the case of all institutions except the charitable, in the second twelve years. The largest increase of state appropriations for any one class of institutions in the twenty-four years has been for educational institutions. Incidental expenses show proportionately larger by far in the first twelve years than during the second. Sundries, it will be seen, fall off greatly; this was due to the fact that the cost of building the capitol is included in the first seven fiscal periods.

“The last columns on the right of both tables should be noted. In 1873-75 county tax payers contributed 91.5 per cent of all taxes, and corporations, etc., 8.5 per cent; in

1895-97 the counties paid 86.9 per cent and corporations 13.1 per cent, a lessening in the twenty-four years of 4.6 per cent of the relative share of tax burdens sustained by the people.

“The columns in Part II showing the relative amounts allotted to various expense accounts of the state government exhibit the fact that the Civil List cost less proportionately during 1895-97 than twenty-four years ago; that Incidental Expenses took 30.8 per cent of all the appropriations in 1873-75, and only 10.5 in the last period; and that with one exception the Incidental Expenditures of the State of Iowa were relatively less during the period just closed than in any other in the past quarter of a century. The column that shows where the increasing proportion of the people’s money has gone is the second one of that group, State Institutions. It shows almost a steady increase from 52.6 per cent of all appropriations in 1873-75 up to 73 per cent of all authorized expenditures in 1895-97.”<sup>324</sup>

Table III<sup>325</sup> gives data relative to population and assessed valuation. Both the total and the per capita assessed valuation is given. In 1856, when Iowa was for the most part a pioneer State with a population of 517,875, the assessed valuation was \$164,394,413, or \$317.44 per capita. In 1875 when the population had reached 1,350,553, the per capita assessed valuation had fallen to \$293.52; but in 1885, with a population of 1,753,980, there is a per capita assessed valuation of only \$279.17. Finally, the per capita assessed valuation, which in 1857 reached the large sum of \$373.13, was only \$241.83 in 1900.

Speaking of this relation between growth of population and increase of assessed valuation, the Auditor of State in 1885 says that “the total equalized valuation of property as before stated, is \$489,660,081. That this figure very inadequately represents the wealth of the state needs no argument to establish. It is palpable. No observing person

will contend that the state's growth in population, until it now contains one and three-quarter millions of people within its borders, has not been accompanied with a much greater increase in wealth, both acquired and productive. Yet the figures of the assessors would indicate far otherwise. . . . These figures show that, while the population of the state has increased in the last twenty-nine years 238 per cent, the assessed valuation of property has been raised only 198 per cent''.<sup>326</sup> As indicated by the data given for 1890 and 1900<sup>327</sup> the contrast had become even more striking.

TABLE III  
TOTAL AND PER CAPITA ASSESSED VALUATION

YEARS	POPULATION	ASSESSED VALUATION	VALUATION PER CAPITA
1856.....	517,875	\$164,394,413	\$317.44
1857.....	562,930	210,044,533	373.13
1859.....	641,628	197,823,350	308.31
1861.....	685,713	177,244,316	251.19
1863.....	701,093	167,108,974	238.35
1865.....	756,427	215,063,401	284.31
1867.....	902,317	256,517,184	284.28
1869.....	1,045,025	294,532,252	281.84
1871.....	1,217,900	348,642,728	286.26
1873.....	1,251,340	369,124,912	294.98
1875.....	1,350,553	395,423,140	293.52
1877.....	1,445,900	404,670,044	279.87
1879.....	1,541,000	405,541,397	262.14
1881.....	1,660,000	419,102,728	252.47
1883.....	1,700,000	463,824,466	272.83
1885.....	1,753,980	489,660,081	279.17
1890.....	1,911,896	523,861,858	273.47
1900.....	2,231,853	539,737,596	241.83

Table IV<sup>328</sup> showing the reported assessment of various forms of property, together with the total equalized assessment of the State for the period from 1870 to 1908, affords a more complete basis for the study of assessed valuations. This table gives the reported actual value of lands and town lots, the reported and equalized taxable value of such lands



and town lots, and finally the equalized taxable value of personal property, railroad property, telegraph and telephone properties, and the taxable value of express companies. The net equalized taxable value of the State is obtained by reading to the right, beginning with the "net equalized taxable value of lands and town lots."

Up to the time of the enactment of the *Code of 1897* the actual value of lands and town lots as given in Table IV was synonymous with the taxable value of such lands and town lots. In 1897 those who were responsible for the revision of the code, recognizing that property was actually being assessed and taxed at about one-fourth of its value, concluded that such a ratio should be enacted into law and made a part of the new code.<sup>329</sup> Accordingly, this clause was inserted: "All property subject to taxation shall be valued at its actual value, which shall be entered opposite each item, and shall be assessed at twenty-five per cent of such actual value".<sup>330</sup>

It was thought at the time that taxpayers would be more inclined to give in the full value of their property if it was known that they would be taxed on only one-fourth of such value. This may be true, but it is none the less difficult for one to understand the distinction between four times one and one times four either in the realm of mathematics or of taxation. Other conditions being equal, if the assessment is doubled the rate will be only one-half as great. The benefit to be derived from such a provision is, to say the least, questionable. It certainly has a tendency to inflate tax rates which always makes a bad impression from the standpoint of non-residents coming into the State.

Referring again to Table IV it is seen that the total assessed valuation of the State has increased from \$294,532,252 in 1870 to \$409,819,020 in 1880, \$523,862,858, in 1890, \$539,737,596 in 1900, and finally to \$667,668,233 in 1908. On the whole, the increase has been gradual and in fact quite

TABLE IV

SHOWING THE REPORTED ASSESSMENT OF LANDS AND TOWN LOTS, THE EQUALIZED ASSESSMENT OF LANDS AND LOTS, THE ASSESSMENT OF PERSONAL AND RAILROAD PROPERTY, THE ASSESSMENT OF TELEGRAPH, TELEPHONE, AND EXPRESS COMPANIES' PROPERTY, TOGETHER WITH THE TOTAL EQUALIZED ASSESSMENT OF THE STATE FOR A PERIOD OF THIRTY-NINE YEARS

Year	Reported Actual Value Per Acre	Adjusted Actual Value Per Acre	Reported Actual Value of Lands	Reported Actual Value of Town Lots	Exemptions for Roads and Homesteads	Net Reported Taxable Value of Lands and Town Lots	Net Equalized Taxable Value of Lands and Town Lots	Equalized Taxable Value of Personal Property	Taxable Value of Railroad Property	Taxable Value of Telegraph and Telephone Properties	Taxable Value of Express Companies	Net Equalized Taxable Value of State
1870	...	...	\$181,881,973	\$40,272,055	...	\$222,154,008	\$222,561,061	\$71,971,191	...	...	...	\$294,532,262
1871	...	...	213,440,401	45,224,943	...	258,665,344	273,836,469	75,201,885	...	...	...	349,038,354
1872	...	...	213,440,401	45,224,943	...	258,665,344	273,846,469	73,880,076	...	...	...	366,076,206
1873	...	...	217,907,148	47,642,585	...	265,549,733	278,586,019	71,683,367	...	...	...	369,124,912
1874	...	...	217,907,148	47,642,585	...	265,549,733	278,586,019	74,039,734	...	...	...	374,340,884
1875	...	...	228,413,607	48,833,740	...	277,247,347	294,313,368	79,032,896	...	...	...	385,423,140
1876	...	...	228,413,607	48,833,740	...	277,247,347	294,313,368	84,288,071	...	...	...	401,264,378
1877	...	...	239,215,198	52,375,650	...	291,590,848	302,277,061	79,971,080	...	...	...	404,670,044
1878	...	...	239,215,198	52,375,650	...	291,590,848	302,277,061	77,485,822	...	...	...	401,488,149
1879	...	...	245,870,293	54,384,461	...	300,254,754	303,381,498	79,618,995	...	...	...	405,654,045
1880	...	...	245,870,293	54,384,461	...	300,254,754	303,381,498	82,638,655	...	...	...	409,819,020
1881	...	...	241,986,396	55,523,683	...	297,492,079	303,380,905	89,327,400	...	...	...	419,316,200
1882	...	...	241,986,396	55,523,683	...	297,492,079	303,380,905	96,136,476	...	...	...	426,281,552
1883	...	...	267,582,087	65,680,954	...	333,272,041	336,323,084	98,809,203	...	...	...	464,105,133
1884	...	...	267,582,087	65,680,954	...	333,272,041	336,323,084	97,653,463	...	...	...	464,508,636
1885	...	...	277,370,894	71,882,514	...	349,263,378	353,014,837	103,372,905	...	...	...	488,933,127
1886	...	...	277,370,894	71,882,514	...	349,263,378	353,014,837	101,654,942	...	...	...	489,540,460
1887	...	...	271,768,734	77,445,043	...	349,213,777	359,982,086	101,665,098	...	...	...	500,960,599
1888	...	...	271,768,734	77,445,043	...	349,213,777	359,982,086	100,794,562	...	...	...	504,901,880
1889	...	...	272,857,509	85,755,427	...	358,612,936	374,753,312	103,564,136	...	...	...	522,567,477
1890	...	...	272,857,509	85,755,427	...	358,612,936	374,753,312	105,543,264	...	...	...	523,862,588



TABLE IV—CONTINUED

Year	Reported Actual Value Per Acre	Adjusted Actual Value Per Acre	Reported Actual Value of Lands	Reported Actual Value of Town Lots	Exemptions for Roads and Home- steads	Net Reported Taxable Value of Lands and Town Lots	Net Equalized Taxable Value of Lands and Town Lots	Equalized Tax- able Value of Personal Prop- erty	Taxable Value of Railroad Proper- ty	Taxable Value of Telephone Com- panies	Taxable Value of Express Compa- nies	Net Equalized of State Value
1891	.....	.....	\$274,477,085	\$96,744,226	.....	\$371,221,911	\$376,181,276	\$109,745,691	\$44,798,174	\$673,385	.....	\$531,308,526
1892	.....	.....	271,427,985	96,744,226	.....	371,221,911	376,181,276	112,882,577	44,924,456	673,446	.....	534,561,755
1893	.....	.....	293,230,205	103,922,048	.....	397,152,253	408,053,626	112,816,334	44,987,839	672,172	.....	556,529,971
1894	.....	.....	293,230,205	103,922,048	.....	397,152,253	408,053,626	106,865,954	46,063,984	659,984	.....	560,643,346
1895	.....	.....	302,689,731	103,227,185	.....	405,916,916	413,970,588	100,493,479	44,531,225	706,115	.....	550,650,824
1896	.....	.....	302,689,731	103,227,185	.....	405,916,916	413,970,588	96,775,721	44,532,125	706,115	.....	555,984,549
1897	.....	.....	303,330,148	103,072,225	.....	406,402,373	414,223,421	95,509,523	44,494,024	834,366	.....	555,561,274
1898	.....	.....	303,330,148	103,072,225	.....	406,402,373	411,556,521	88,084,467	44,606,794	930,638	.....	545,176,720
1899	.....	\$ 34.53	1,190,658,592	371,121,363	12,077,733	388,925,555	391,618,881	90,299,004	44,736,070	1,028,845	.....	526,539,050
1900	.....	34.76	1,204,063,357	378,545,379	9,611,188	393,250,888	393,250,888	98,856,185	46,194,727	1,206,989	\$ 244,970	539,737,596
1901	.....	36.06	1,250,016,082	393,001,798	14,381,898	407,158,985	409,541,075	104,030,797	47,328,912	1,300,248	261,587	558,462,618
1902	.....	36.20	1,251,912,986	403,995,070	15,151,865	410,189,783	410,189,783	109,168,678	51,570,242	1,545,803	365,885	572,540,391
1903	.....	42.01	1,455,524,027	429,952,632	21,112,098	466,091,140	466,597,610	112,043,999	59,947,711	1,927,783	420,283	637,937,386
1904	.....	42.36	1,467,675,804	437,000,806	19,371,305	471,488,811	471,488,811	110,171,711	58,053,770	2,294,115	436,151	642,446,336
1905	.....	41.76	1,447,233,336	441,890,619	21,193,236	466,975,180	450,810,676	108,462,123	58,785,749	2,427,503	408,059	620,894,110
1906	.....	40.47	1,402,380,285	438,785,969	17,629,811	455,871,611	455,871,611	112,882,114	63,044,617	2,578,412	357,068	634,733,822
1907	.....	41.48	1,436,906,142	467,561,821	18,907,967	471,389,999	470,915,912	119,527,554	64,177,327	3,037,247	408,192	658,063,232
1908	.....	41.55	1,440,890,326	480,227,806	17,544,461	475,893,422	475,893,422	123,492,167	64,524,659	3,397,128	390,857	667,068,233

NOTE.—Telegraph and telephone companies were assessed by the executive council by virtue of sections 1330 and 1331 of the Code up to and including the assessment of 1899 and their taxes were paid into the state treasury direct, the levy being 3 1-3 per cent that having been the average rate of taxation in the state for all purposes. Beginning with the assessment of 1900, the value of both telegraph and telephone and express companies' property was certified to the various county auditors by the auditor of state, the same having been valued by the executive council, in accordance with chapters 42 and 45 of the laws of the Twenty-eighth General Assembly. The values as certified are placed on the tax lists of the various counties and the taxes collected by the county treasurers, the same as taxes on all other classes of property; beginning with the assessment of 1900 and each even numeral year thereafter new buildings erected the year prior are added to real estate.



constant. Exceptions to this rule are to be found in the years 1878, 1894-1899, and 1905. But it should be noted that the period from 1894 to 1899 reveals a uniform assessed valuation much higher than that of 1892, thus showing an increase rather than a decrease for the decade beginning in 1890.

One other general fact in Table IV should be considered, namely, the results of the twenty-five per cent ratio of assessed to actual value as provided in the *Code of 1897*. In 1899 the reported actual value of lands and town lots is nearly four times as great as in 1898. As a logical result of this condition there is a small decrease in the total assessed valuation of 1899 as compared with that of 1898. This, however, merely indicates a continuation of the decline which began in 1894. In other words, reading down the column giving total assessed valuation the same gradual increase is found between 1898 and 1908 as between 1870 and 1898. The twenty-five per cent ratio has no effect on this column. On the other hand, the actual value of lands and town lots is approximately four times as great after 1898, or four times the assessed valuation as provided by law. It is apparent, therefore, that what was actually done in 1897 was to leave the assessed valuation just as it was — legally recognizing, however, that such valuation was about one-fourth of what it should be, that is, one-fourth of the actual value. To put this same thought in another form, the General Assembly in passing the *Code of 1897* formally enacted into law the administrative failure of the general property tax by declaring that it was only twenty-five per cent of a success.<sup>331</sup>

The full meaning of these statements becomes apparent when we examine the Federal census reports and compare the total taxable value therein contained with the total assessed valuation as found in Iowa reports. The estimated true value of all taxable property as given in the United

States census reports is as follows: in 1850, \$23,714,638; in 1860, \$247,338,265; in 1870, \$574,115,800; in 1880, \$1,721,000,000 (taxable and exempt); in 1890, \$2,226,117,151; in 1900, \$3,271,559,959; and in 1904, \$3,943,314,927.<sup>332</sup>

Contrast these figures with the total assessed valuation as given in Tables III and IV. The assessed valuation of the State in 1850<sup>333</sup> was \$22,623,334<sup>334</sup> as compared with the "estimated true value" of \$23,714,638. By 1860 the assessed valuation was approximately \$185,000,000,<sup>335</sup> as compared with the "estimated true value" of \$247,338,265. In 1870 the assessed valuation was \$294,532,252, as compared with "estimated true value", \$574,115,800. Following this date, the contrast rapidly becomes greater: in 1880, assessed valuation \$409,819,020, "estimated true value" \$1,721,000,000; in 1890 assessed valuation \$523,862,858, "estimated true value" \$2,226,117,151; in 1900, assessed valuation \$539,737,596, "estimated true value" \$3,271,559,959; and finally, in 1904, assessed valuation \$642,445,336, "estimated true value" \$3,943,314,927.<sup>336</sup>

To speak mildly, this data is significant. While not absolutely accurate, it reveals fairly well the true condition of affairs. When the *Code of 1851* was enacted, which as has already been stated<sup>337</sup> contains the fundamental outlines of the Iowa revenue system of to-day, the assessed value was nearly equal to the true value. In other words, our revenue system at that time was fairly well suited to the pioneer conditions which prevailed. It was nearly one hundred per cent of a success. In 1860, the date of the *Revision*, the revenue system was still about ninety per cent of a success. In 1870, shortly before the *Code of 1873* was enacted and about the time that agitation was earnestly demanding specific forms of taxation, we find that the assessed value is fifty per cent of the "estimated true value". Ten years later, the results are even more startling. After the *Code of 1873* had verbally perfected the scheme of



assessment, and a number of specific forms of taxation had been introduced, the assessed value is less than twenty-five per cent of the "estimated true value". By 1890 the ratio had not materially changed. In 1900 and again in 1904, however, the general property tax as administered in Iowa had become so much of a failure that there existed an assessed value of about one-sixth of the "estimated true value". As already explained, the legislation of 1897 making the assessed value of twenty-five per cent of a "fictitious actual value" does not change this conclusion. The *Code of 1897* merely recognized by this provision the failure of the general property tax, and incidentally advertised an exorbitant tax rate of seven to ten per cent. In a word, the system of assessment, as has been statistically demonstrated, was fairly successful from 1850 to 1860. By 1870 it began to show a real decline. In 1880 it was twenty-five per cent of a success—in other words, a failure. Finally, when the *Code of 1897* was enacted it was worse than a failure—a fact which the General Assembly endeavored to conceal by a statutory subterfuge. The reform imperatively demanded at that time was efficient fiscal administration, which means efficient assessment. But nothing of the kind was accomplished.

Having examined somewhat in detail the amount of taxes, both State and local, collected, and the aggregate assessment of Iowa property,<sup>338</sup> we are now in a position to investigate that most vital and fundamental of all fiscal questions, uniformity of assessment. Manifestly, if all taxpayers were assessed at the same proportionate rate, it would make little difference whether the rate was at ten per cent, twenty-five per cent or one hundred per cent of the true value of property. The lower the assessment, the amount of tax remaining the same, the higher would be the rate, and vice versa. We would have an interchanging of multiplier and multiplicand—a rather harmless process, but



TABLE V<sup>339</sup>

## AVERAGE TAXABLE VALUES OF LIVE STOCK

Year	Cattle	Horses	Mules	Sheep	Swine	Goats
1870.....	\$ 12.87	\$ 42.67	\$ 38.53	\$ .63	\$ 3.09	.....
1871.....	13.37	39.97	50.18	.68	2.56	.....
1872.....	11.10	35.04	45.01	1.00	2.03	.....
1873.....	10.98	34.33	42.41	1.09	1.86	.....
1874.....	11.04	35.35	41.80	1.08	2.00	.....
1875.....	11.01	33.35	40.77	1.22	2.37	.....
1876.....	10.90	32.42	40.54	1.11	2.63	.....
1877.....	10.26	30.48	38.94	1.09	2.36	.....
1878.....	10.90	29.05	36.75	1.01	1.91	.....
1879.....	10.20	29.23	37.11	1.10	1.50	.....
1880.....	10.48	29.33	36.62	1.30	1.92	.....
1881.....	10.52	29.80	36.59	1.25	2.02	.....
1882.....	10.44	30.52	37.47	1.28	2.08	.....
1883.....	10.60	30.06	37.14	1.19	2.15	.....
1884.....	10.41	31.00	37.25	1.17	1.97	.....
1885.....	10.97	31.56	36.07	1.08	1.71	.....
1886.....	10.16	30.18	34.54	.99	1.58	.....
1887.....	9.03	29.04	33.32	1.02	1.56	.....
1888.....	8.05	28.33	32.24	.99	1.84	.....
1889.....	7.70	27.81	30.80	1.06	2.06	.....
1890.....	7.11	26.46	28.80	1.18	1.64	.....
1891.....	6.71	25.64	27.46	1.33	1.39	.....
1892.....	6.70	24.10	25.67	1.35	1.55	.....
1893.....	6.99	21.67	23.85	1.36	2.14	.....
1894.....	7.25	17.03	18.93	.99	2.02	.....
1895.....	4.96	13.58	15.43	.88	1.65	.....
1896.....	7.65	12.72	14.19	.94	1.66	.....
1897.....	8.13	11.81	12.97	.97	1.56	.....
1898.....	6.87	8.94	9.39	.86	1.19	.....
1899.....	6.96	9.56	10.26	.87	1.19	.....
1900.....	7.09	11.27	12.31	.90	1.28	\$ .74
1901.....	6.41	12.06	13.92	.83	1.47	.78
1902.....	5.77	12.90	15.46	.70	1.63	.70
1903.....	5.73	13.74	16.57	.68	1.68	.72
1904.....	5.24	14.11	16.94	.68	1.30	.65
1905.....	5.09	14.36	16.86	.74	1.30	.67
1906.....	5.19	15.53	18.03	.86	1.41	.66
1907.....	5.32	16.82	19.03	.88	1.62	.61
1908.....	5.11	16.61	18.83	.87	1.21	.60

TABLE VI<sup>340</sup>

SHOWING THE CATTLE, HORSES, SHEEP, AND SWINE, AND THE TOTAL AND AVERAGE VALUE THEREOF,  
AS ASSESSED BY THE SEVERAL COUNTIES FOR THE YEAR 1893

COUNTIES	CATTLE			HORSES			MULES			SHEEP			SWINE		
	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value
Adair.....	29,187	\$203,012	\$6.96	12,314	\$280,453	\$22.78	496	\$12,128	\$24.45	5,725	\$5,766	\$1.01	22,991	\$43,965	\$1.91
Adams.....	26,810	222,491	8.30	10,234	246,687	24.10	415	10,202	24.58	2,827	4,138	1.46	18,371	55,160	3.00
Allamakee.....	24,764	133,282	5.38	10,251	218,548	21.32	49	978	19.96	2,700	3,080	1.14	17,326	30,274	1.75
Appanoose.....	26,337	222,966	8.47	13,376	296,821	22.19	402	8,994	32.38	5,472	7,561	1.38	5,246	17,302	3.40
Audubon.....	22,733	180,897	7.08	9,769	223,962	22.93	966	13,375	13.84	579	843	1.46	22,249	62,313	2.80
Benton.....	43,812	338,351	7.72	17,323	420,635	24.28	234	5,839	24.95	1,920	2,897	1.51	39,458	111,633	2.83
Black Hawk.....	36,665	244,618	6.67	13,388	346,150	25.86	238	6,467	27.17	2,151	3,169	1.47	28,409	60,814	2.14
Boone.....	30,313	175,446	5.79	13,021	268,181	20.60	386	8,512	22.05	830	1,006	1.21	29,112	47,177	1.62
Bremér.....	30,324	202,397	6.67	9,970	196,307	19.69	43	805	18.72	7,065	11,444	1.49	20,583	34,942	1.70
Buchanan.....	38,759	302,247	7.80	13,173	336,201	25.52	157	3,908	24.89	4,034	5,969	1.29	17,039	63,340	3.72
Buena Vista.....	28,442	120,751	4.25	10,545	106,829	10.13	274	3,061	11.17	1,435	1,435	1.00	29,354	17,076	.58
Butler.....	34,541	188,060	5.44	12,547	231,948	18.49	133	2,430	18.27	4,010	4,776	1.04	21,335	36,523	1.24
Calhoun.....	25,674	131,072	5.11	10,963	129,196	11.75	368	5,247	14.26	1,730	1,819	1.05	22,446	53,285	2.37
Carroll.....	28,379	180,586	6.36	11,970	174,906	14.61	368	7,100	19.29	846	427	.50	36,887	22,082	.60
Cass.....	30,068	244,194	8.12	12,889	297,797	23.10	720	22,131	30.74	5,097	7,211	1.41	31,364	58,758	1.87
Cedar.....	38,737	259,650	6.70	15,695	301,745	19.23	530	11,458	21.62	12,548	15,545	1.24	45,328	84,431	1.86
Cerro Gordo.....	27,727	151,057	5.45	10,095	205,777	20.38	128	2,434	19.05	5,921	7,253	1.22	17,683	31,948	1.81
Cherokee.....	28,988	202,107	6.97	10,385	207,904	20.12	226	4,543	20.10	1,260	1,345	1.07	32,317	48,545	1.50
Chickasaw.....	28,220	148,100	5.25	10,123	248,239	24.52	57	1,130	19.82	1,636	1,716	1.05	10,570	22,318	2.11
Clarke.....	26,029	235,436	9.05	10,496	241,924	23.05	230	6,408	27.86	2,596	3,173	1.22	12,575	48,997	3.90
Clay.....	19,894	89,261	4.49	8,984	170,821	19.01	179	3,488	19.49	3,133	1,679	.53	14,020	13,371	.95
Clayton.....	34,603	219,540	6.34	13,955	317,241	22.75	172	3,769	21.91	4,618	7,999	1.73	23,298	48,475	2.08
Clinton.....	45,357	257,766	5.68	16,270	291,846	17.94	210	3,955	18.83	2,514	2,560	1.01	42,348	47,823	1.13
Crawford.....	37,471	222,480	5.94	13,300	228,126	17.15	643	13,541	21.06	5,776	6,850	1.19	46,092	53,419	1.16
Dallas.....	30,771	291,381	9.47	14,781	366,096	24.77	453	11,970	26.42	1,481	2,922	1.97	26,943	90,627	3.36
Davis.....	25,270	202,146	8.00	12,705	344,220	27.09	193	5,657	29.31	21,734	32,650	1.50	7,103	25,977	3.66

TABLE VI—CONTINUED

COUNTIES	CATTLE			HORSES			MULES			SHEEP			SWINE		
	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value
Decatur.....	26,446	\$228,388	\$8.64	12,812	\$202,373	\$15.80	272	\$7,046	\$25.90	8,498	\$9,731	\$1.15	9,080	\$35,047	\$3.62
Delaware.....	38,413	219,365	5.71	11,732	231,558	19.74	162	3,464	21.51	2,569	2,821	1.10	22,171	51,283	2.31
Des Moines.....	18,771	196,101	10.45	10,387	326,947	31.48	226	9,000	39.82	3,338	6,053	1.81	11,673	33,988	2.91
Dickinson.....	7,531	31,019	4.12	4,684	92,249	19.68	123	2,812	22.86	3,249	3,274	1.01	21,080	3,875	1.38
Dubuque.....	34,749	202,784	5.84	12,718	255,522	20.09	204	3,825	18.75	4,682	4,556	1.04	23,383	31,777	1.36
Emmet.....	7,330	31,023	4.23	4,405	66,601	15.12	76	1,439	18.93	1,580	1,733	1.10	3,528	3,327	.94
Fayette.....	43,710	280,921	6.43	15,332	337,579	22.02	181	3,592	19.85	4,426	4,481	1.01	19,476	39,953	2.05
Floyd.....	27,090	137,608	5.08	10,826	192,410	17.77	58	968	16.69	3,734	3,681	.99	18,694	25,444	1.36
Franklin.....	30,704	145,589	4.74	9,932	176,966	17.82	154	2,607	16.33	3,077	3,065	1.00	26,652	31,270	1.17
Fremont.....	29,915	213,261	7.13	12,323	234,112	19.00	1,526	33,072	21.67	993	1,019	1.03	24,220	61,966	2.55
Greene.....	30,626	177,295	5.79	13,065	236,085	18.07	289	6,600	22.84	1,513	1,555	1.03	26,121	61,910	2.37
Grundy.....	34,484	173,124	5.02	11,665	183,309	15.71	179	3,580	20.00	1,976	1,935	.98	29,949	38,088	1.27
Guthrie.....	28,443	228,335	8.03	13,452	304,774	22.66	486	13,810	28.42	1,813	2,490	1.37	21,905	81,495	3.77
Hamilton.....	33,756	165,357	4.90	11,452	220,687	19.27	249	5,270	21.16	1,168	1,168	1.00	22,436	47,022	2.10
Hancock.....	16,325	122,701	7.52	7,576	144,216	19.04	202	3,331	16.43	764	514	.67	10,666	11,740	1.10
Hardin.....	30,702	226,776	7.39	11,443	265,420	23.19	198	5,323	26.88	2,817	3,877	1.38	25,958	53,754	2.07
Harrison.....	31,452	245,969	7.82	14,117	315,118	22.32	826	24,985	30.25	1,192	1,308	1.10	26,911	85,983	3.20
Henry.....	22,303	192,326	8.62	12,424	267,379	21.52	161	3,825	23.76	10,410	19,413	1.86	14,130	40,035	2.83
Howard.....	20,556	120,229	5.85	8,725	163,607	18.75	63	1,455	23.10	3,921	4,655	1.19	7,742	14,288	1.85
Humboldt.....	20,892	106,808	5.11	7,543	145,004	19.22	181	3,227	17.83	2,922	2,914	1.00	17,935	29,854	1.66
Ida.....	22,073	156,693	7.10	8,194	168,395	20.55	426	10,086	23.13	745	696	.93	26,416	33,843	1.28
Iowa.....	38,004	187,861	4.94	12,865	250,087	19.44	406	7,637	18.81	7,085	7,653	1.08	34,076	60,040	1.76
Jackson.....	28,991	241,002	8.31	10,694	281,346	26.53	179	4,265	23.83	3,477	5,165	1.49	21,983	46,079	2.10
Jasper.....	44,474	338,243	7.61	18,730	476,565	25.44	590	17,449	29.57	8,986	9,340	1.04	42,544	112,514	2.64
Jefferson.....	22,502	198,923	8.84	12,023	308,910	25.69	103	4,374	22.66	10,398	14,046	1.35	10,684	39,315	3.68
Johnson.....	38,293	365,093	9.53	15,455	346,173	22.40	542	14,579	26.93	8,350	12,751	1.53	34,925	82,927	2.37
Jones.....	41,642	325,061	7.81	13,182	319,188	24.21	294	7,916	26.07	3,595	3,595	1.00	29,262	46,204	1.58
Keokuk.....	32,980	301,542	9.14	17,114	514,654	30.07	439	13,213	30.10	6,797	10,461	1.54	21,846	82,377	3.77
Kossuth.....	26,575	122,777	4.62	12,324	250,379	20.32	186	3,665	13.70	3,185	3,936	1.24	17,377	44,067	2.54



TABLE VI—CONTINUED

COUNTIES	CATTLE			HORSES			MULES			SHEEP			SWINE		
	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value
Lee.....	21,424	\$102,833	\$7.60	11,403	\$233,506	\$20.75	546	\$15,051	\$27.57	9,637	\$16,082	\$1.66	9,002	\$31,953	\$3.51
Linn.....	45,110	388,249	8.16	20,051	463,827	23.13	483	11,720	24.27	4,650	5,284	1.14	27,920	57,907	2.07
Louisa.....	20,428	189,351	9.27	10,142	305,842	30.16	155	4,495	29.00	1,402	2,800	2.00	13,116	25,834	1.97
Lucas.....	22,212	235,351	10.14	10,176	345,355	33.94	233	7,028	30.16	8,121	16,521	2.07	9,220	40,361	4.38
Lyon.....	9,020	49,157	5.45	9,004	125,848	13.98	320	4,357	13.71	870	862	.99	12,514	13,213	1.06
Madison.....	31,839	272,497	8.56	14,175	331,726	23.40	391	9,463	24.20	4,353	7,112	1.63	23,304	73,197	3.14
Mahaska.....	29,977	251,204	8.38	16,228	457,148	28.17	617	16,397	26.58	17,645	24,088	1.40	23,941	69,062	2.89
Marion.....	32,963	290,063	8.80	14,278	415,001	29.07	360	10,311	36.14	14,063	20,690	1.47	28,916	100,959	3.49
Marshall.....	32,451	242,005	7.46	13,807	269,064	19.49	230	5,022	21.75	5,136	5,988	1.17	31,215	70,576	2.26
Mills.....	24,766	180,555	7.29	11,204	208,448	18.60	706	17,334	22.63	479	638	1.33	19,166	39,424	2.06
Mitchell.....	20,988	139,114	6.63	9,111	208,704	23.31	67	1,348	20.12	3,220	3,400	1.07	12,841	26,533	2.03
Monona.....	30,342	184,237	6.07	12,340	195,959	15.88	850	19,214	22.60	3,636	3,393	.93	26,489	48,498	1.87
Monroe.....	23,111	212,891	9.21	8,887	279,311	31.43	251	7,815	31.14	5,256	10,596	2.01	6,370	25,581	4.02
Montgomery.....	25,428	240,993	9.48	10,286	234,480	22.80	425	11,531	27.13	2,226	3,145	1.41	24,705	90,055	3.61
Muscatine.....	21,354	206,227	9.66	11,983	335,415	27.99	389	11,632	31.52	1,915	2,140	1.12	21,120	55,133	2.63
O'Brien.....	20,521	103,461	5.04	10,869	158,816	14.61	285	4,233	14.85	8,611	8,610	1.00	22,861	38,058	1.66
Osceola.....	7,502	33,971	4.53	5,368	77,724	14.48	194	2,859	14.74	3,889	5,532	.65	4,166	4,711	1.14
Page.....	32,380	262,695	8.11	15,967	330,474	21.95	711	13,522	27.46	4,561	6,084	1.33	34,414	120,656	3.51
Palo Alto.....	21,528	108,007	5.02	8,262	117,436	14.21	216	3,546	16.42	1,760	1,764	1.00	10,972	13,833	1.26
Plymouth.....	23,116	136,477	4.69	14,822	308,886	20.84	544	14,075	25.86	1,577	1,186	.75	38,452	38,452	1.00
Pocahontas.....	21,987	119,420	5.43	9,072	156,691	17.27	783	22,304	28.49	1,353	1,666	1.01	15,876	32,138	2.00
Polk.....	30,101	188,518	6.26	17,982	457,777	25.46	1,824	50,175	27.51	2,645	3,842	1.45	61,448	68,670	2.61
Pottawattamie.....	50,546	402,443	7.96	22,901	432,725	18.90	1,824	50,175	27.51	2,645	3,842	1.45	61,448	68,670	2.61
Poweshiek.....	39,097	282,576	7.23	14,742	341,518	23.17	438	11,093	25.33	4,079	5,183	1.27	41,548	96,076	2.31
Ringgold.....	30,989	261,923	8.45	13,987	294,192	21.03	316	8,277	26.19	5,818	9,272	1.59	12,745	45,936	3.62
Sac.....	33,800	160,195	4.73	11,319	203,334	17.96	356	5,445	15.29	2,414	4,777	1.13	30,493	42,845	1.46
Scott.....	26,400	202,863	7.68	13,049	315,022	24.14	574	15,850	27.61	2,349	2,343	1.00	32,585	70,039	2.15
Shelby.....	27,552	173,772	6.31	14,198	261,651	18.43	656	14,005	22.36	1,680	2,180	1.29	35,475	68,623	1.93
Sioux.....	21,881	157,214	7.18	12,943	229,072	17.70	432	9,866	22.84	4,414	2,220	.50	38,885	21,033	.54

TABLE VI—CONTINUED

COUNTIES	CATTLE			HORSES			MULES			SHEEP			SWINE		
	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value	Number	Total Value	Average Value
Story.....	30,553	\$186,044	\$6.08	14,301	\$294,428	\$20.59	347	\$7,894	\$22.75	2,780	\$4,358	\$1.57	19,242	\$32,880	\$2.05
Tama.....	49,220	401,555	8.33	15,092	388,424	25.73	320	8,818	27.56	3,816	4,928	1.29	40,714	108,402	2.66
Taylor.....	30,043	254,852	8.48	12,183	273,043	22.49	316	6,295	19.82	5,949	7,521	1.26	23,949	68,500	2.86
Union.....	26,225	220,692	8.42	9,939	228,782	22.91	206	4,954	24.05	4,278	5,337	1.25	13,610	42,436	3.12
Van Buren.....	21,543	217,762	10.11	11,448	326,431	28.52	266	9,941	37.37	29,749	65,634	2.21	6,027	32,917	5.46
Wapello.....	18,710	156,040	8.37	11,458	269,952	23.58	398	9,103	22.87	4,914	10,828	2.20	10,062	31,953	3.08
Warren.....	31,722	240,236	7.57	15,369	351,253	22.85	357	8,058	22.57	3,967	5,742	1.45	23,467	56,801	2.42
Washington.....	33,035	284,610	8.62	15,160	417,266	27.52	372	11,217	30.15	2,585	2,682	1.04	28,225	56,483	2.00
Wayne.....	31,561	205,655	6.52	14,921	306,235	20.52	282	7,194	25.51	5,240	5,332	1.03	11,529	22,916	1.90
Webster.....	34,039	221,188	6.50	13,925	278,500	20.00	401	8,020	20.00	892	1,338	1.50	14,632	58,528	4.00
Winnbago.....	13,739	59,274	4.31	5,568	90,281	16.21	97	1,611	16.61	1,584	1,208	.76	6,176	17,337	2.83
Winnebuck.....	34,053	186,286	5.47	13,453	289,628	21.53	64	1,265	19.77	3,772	3,940	1.04	27,544	58,223	2.11
Woodbury.....	36,264	220,138	6.07	18,680	332,836	17.82	1,008	22,140	21.96	2,766	2,170	.78	27,808	42,203	1.52
Worth.....	20,725	97,459	4.70	6,878	135,972	19.75	68	1,413	20.78	3,073	3,094	1.01	12,324	15,838	1.29
Wright.....	26,483	123,338	4.66	10,206	149,833	14.69	260	4,335	16.67	837	887	.95	18,754	31,750	1.69
Total.....	2,852,375	\$19,925,539	\$6.99	1,212,750	\$26,285,029	\$21.67	35,895	\$556,012	\$23.85	436,367	\$595,262	\$1.36	2,209,794	\$4,721,201	\$2.14

one which was never known to solve any tax problems. But when one person is assessed at ten per cent of the true value of his property, another person at twenty-five per cent, a third at fifty per cent, a fourth at one hundred per cent, and a fifth at two hundred per cent, there exists a real injustice under the forms of law which ought not to be tolerated in a democratic State. Yet these are conditions quite general throughout our country, and Iowa offers no exception to the rule. The inequalities under consideration may be considered as threefold: first, inequalities between counties in the payment of State taxes; second, inequalities between local taxing districts in the payment of county and State taxes; and third, inequalities between individuals in bearing the burden of taxation, both State and local.

Tables V and VI show conditions relative to the assessment of live stock. Table VI deals directly with inequalities between counties. Table V moreover reveals the rapidly declining efficiency of the whole assessment system. Here it is seen, for example, that the average taxable value of cattle declined from \$12.87 in 1870 to \$10.48 in 1880; to \$7.11 in 1890; to \$7.09 in 1900; and finally to \$5.11 in 1908. In other words, the average value of cattle in 1908 was about forty per cent of what it was in 1870, if we are to form our judgment from the assessment roll. The taxable value of horses also declined from \$42.67 in 1870 to \$16.61 in 1908, the lowest point, \$8.94 being reached in 1898. Mules which were assessed at \$50.18 in 1871 declined in value at about the same ratio. An assessment roll mule was worth \$36.62 in 1880, \$28.80 in 1890, \$9.39 in 1898, and \$18.83 in 1908. Swine listed at \$3.09 in 1870 had an assessed value of only \$1.21 in 1908. The table considered as a whole reveals the rapid failure of the general property tax since 1870 from the standpoint of administration and incidentally pays a compliment to scientific stock raising in Iowa.

Table VI requires only a brief comment. It is self-



explanatory, and he who runs may both read and understand. As shown by this table the assessed value of cattle was as follows: Adair County, \$6.96; in Calhoun County, \$5.11; in Clarke County, \$9.05; in Des Moines County, \$10.45; and in Wright County, \$4.66. The assessed value of horses, mules, sheep, and swine reveals the same inequalities. It would be instructive, for example, to know what breed of swine was raised at that time in Sioux County, where the assessed value was only fifty-four cents, as compared with Webster County where the assessed value was \$4.00. The same conditions prevail to-day — and in fact prevailed before 1893.

In his report for 1885 the Auditor of State writes that “the valuation of cattle ranges from \$18.32 a head in Davis county, and \$15.47 in Appanoose county, to \$6.14 in Winneshiekie and \$6.46 in Lyon; that of horses, from \$43.20 in Davis, and \$42.78 in Mills, to \$15.85 in Lyon and \$15.95 in O’Brien; that of mules, from \$53.88 in Mills, and \$51.32 in Page, to \$16.62 in Lyon and \$16.98 in O’Brien; that of sheep, from \$2.01 in Pocahontas, and \$1.53 in Linn and Monroe, to 41 cents in Palo Alto (adjoining Pocahontas), and 47 cents in Lyon; and that of swine, from \$4.30 in Van Buren and \$4.23 in Davis, to 62 cents in Carroll and 30 in O’Brien!”<sup>241</sup> Manifestly, such inequalities ought not to exist in Iowa. They indicate radical and fundamental defects in the administration of our fiscal system. The remedy is more efficient administration, not more laws.

Turning now to the assessed value of land as compared with the actual sale value, the same inequalities are found to exist. On May 3rd, 1909, the Secretary of the Executive Council addressed the following letter to all County Auditors:

The Executive Council having determined that it is desirable that data be gathered relative to the actual value of lands and other property in the several counties of the State, I am directed by the

Governor to request, under the authority of Section 544 of the Code, that you furnish during the current month a list of lands that have been conveyed in your county between the dates May 1st, 1908, and May 1st, 1909, by deeds representing the real sale value thereof together with the actual values placed upon the same by the several assessors and as equalized by the township and county boards of equalization.

In selecting the tracts endeavor to select tracts from each township of the county if possible. Select tracts of 160 acres or more in preference to smaller tracts and in no case select tracts of less than 40 acres. Do not report more than six (6) descriptions in the same township, nor more than an average of three for all the townships of the county. Discard transfers based on contracts made prior to 1908, where you can determine the fact from the conveyance or from information in your possession. Discard quit claim deeds and all other deeds that for any reason do not represent the actual value or present value. With this letter will be sent a printed form for the land transfers.

The letter requires no explanation. The data obtained from the county auditors and tabulated by the Secretary of the Executive Council appears in Table VII. To be sure this data is obviously incomplete and open to criticism; at the same time it represents fairly well the actual conditions now prevailing in Iowa. The table gives the equalized value per acre for 1903, 1907, and 1909; the value of lands reported transferred in 1902 and 1908; the actual value placed on the same tracts for taxation in 1903 and 1909; and finally, the per cent of assessed value to sale value in 1903 and 1909.

Attention is directed especially to the columns giving the ratio of assessed to actual sale value. In 1903 the ratio was as follows in selected counties: Adair, 63 per cent; Adams, 87 per cent; Appanoose, 91 per cent; Cass, 74 per cent; Davis, 95 per cent; Henry, 98 per cent; Monona, 65 per cent; Polk, 93 per cent; Warren, 100 per cent; and Winnebago, 116 per cent. In the same list of counties the ratio

TABLE VII<sup>342</sup>  
ABSTRACT OF LAND VALUATIONS AND TRANSFERS, 1909

COUNTIES	No.	Equal- ized Value Per Acre 1903	Equal- ized Value Per Acre 1907	Reported Value Per Acre 1909	Value of Lands Reported Transferred in 1908	Value of Lands Reported Transferred in 1902	Actual Value Placed on Same Tracts for Taxation 1909	Actual Value Placed on Same Tracts for Taxation 1903	Per Cent of Sale Value to 1900	Per Cent of Sale Value to 1903	No.
Adair.....	1	\$37.02	\$30.94	\$37.58	\$474,738	\$275,135	\$248,388	\$175,346	52	63	1
Adams.....	2	42.51	38.13	37.51	480,902	911,044	254,272	798,128	52	87	2
Allamore.....	3	23.42	23.34	24.45	213,823	275,332	140,238	224,271	66	82	3
Appanoose.....	4	32.05	31.83	33.13	244,835	157,852	187,993	143,294	75	91	4
Audubon.....	5	45.77	44.33	44.32	334,267	474,355	160,192	407,938	48	86	5
Benton.....	6	53.76	53.66	54.23	279,348	429,705	167,420	376,164	60	87	6
Black Hawk.....	7	49.96	48.79	*	486,442	253,338	205,061	166,801	54	65	7
Boone.....	8	48.07	47.77	50.57	360,380	432,820	200,800	365,145	56	85	8
Bremer.....	9	43.22	43.22	43.41	295,506	249,528	169,191	188,202	67	74	9
Buchanan.....	10	42.66	41.66	42.73	406,216	211,800	242,406	175,490	60	87	10
Buena Vista.....	11	45.75	45.12	47.02	511,080	612,313	285,752	503,448	56	82	11
Butler.....	12	46.61	44.51	43.80	471,670	296,342	270,084	234,988	57	80	12
Calhoun.....	13	46.78	46.08	45.77	406,117	451,353	248,997	413,381	61	92	13
Carroll.....	14	50.92	48.37	49.14	618,641	742,166	330,964	669,381	53	90	14
Cass.....	15	46.89	43.02	42.87	600,600	382,481	294,289	285,809	47	74	15
Cedar.....	16	51.60	51.22	53.04	494,775	563,208	265,008	473,832	54	84	16
Cerro Gordo.....	17	42.37	41.16	44.66	357,885	533,942	237,108	433,175	66	73	17
Cherokee.....	18	44.84	43.47	44.44	849,177	528,136	398,735	449,307	47	85	18
Chickasaw.....	19	39.59	37.72	37.93	232,820	269,762	136,236	175,807	60	68	19
Clarke.....	20	32.92	31.90	32.45	85,723	437,382	55,918	325,943	65	75	20
Clay.....	21	38.16	38.73	38.35	386,495	447,893	212,682	407,362	55	91	21
Clayton.....	22	32.82	34.12	34.73	283,732	956,497	171,555	802,163	60	94	22
Clinton.....	23	49.37	48.61	48.75	389,706	298,272	229,500	231,596	53	80	23
Crawford.....	24	43.03	41.18	42.87	861,832	301,892	479,720	282,021	56	87	24
Dallas.....	25	50.07	51.06	49.07	526,503	261,365	294,820	208,564	56	80	25



TABLE VII—CONTINUED.

COUNTIES	No.	Equal- ized Value Per Acre 1903	Equal- ized Value Per Acre 1907	Reported Value Per Acre 1909	Value of Lands Reported Transferred in 1908	Value of Lands Reported Transferred in 1902	Actual Value Placed on Same Tracts for Taxation 1909	Actual Value Placed on Same Tracts for Taxation 1903	Per Cent of Value to 1909	Per Cent of Value to 1903	No.
Davis.....	26	\$32.54	\$31.96	\$32.24	\$109,420	\$79,655	\$132,702	\$264,831	78	95	26
Decatur.....	27	32.30	32.10	32.25	262,496	262,496	155,529	274,704	62	85	27
Delaware.....	28	43.52	39.79	40.17	118,850	265,176	82,230	190,677	69	72	28
Des Moines.....	29	43.60	44.50	45.15	185,344	111,172	91,122	83,685	49	75	29
Dickinson.....	30	34.96	36.84	35.70	371,490	396,518	253,576	338,307	68	91	30
Dubuque.....	31	40.38	39.62	41.32	377,110	350,290	238,309	292,247	63	81	31
Emmet.....	32	35.93	34.45	34.95	283,933	376,173	175,573	330,689	62	86	32
Fayette.....	33	38.27	37.70	41.78	343,369	407,195	227,754	308,061	66	75	33
Floyd.....	34	43.50	40.62	41.02	252,176	484,283	150,112	380,990	60	79	34
Franklin.....	35	46.12	43.76	44.22	434,951	374,181	248,635	306,609	57	82	35
Fremont.....	36	42.48	41.91	40.84	327,133	429,675	171,068	274,718	52	65	36
Greene.....	37	47.29	43.96	44.63	491,540	290,039	257,506	265,450	52	91	37
Grundy.....	38	50.33	52.14	52.12	654,336	405,280	306,572	310,943	47	74	38
Guthrie.....	39	38.89	38.91	39.67	303,832	166,315	180,263	157,103	59	94	39
Hamilton.....	40	47.03	44.85	47.65	626,578	351,737	369,998	321,242	59	91	40
Hancock.....	41	34.85	32.29	32.36	491,894	401,228	251,096	239,802	51	60	41
Hardin.....	42	48.05	47.67	47.86	483,870	242,542	262,774	213,036	54	88	42
Harrison.....	43	37.33	37.10	37.71	223,706	128,745	302,833	302,833	55	84	43
Henry.....	44	42.34	44.46	48.04	231,020	212,997	125,048	209,028	54	98	44
Howard.....	45	39.87	38.53	38.46	187,080	747,287	110,640	615,346	59	81	45
Humboldt.....	46	40.45	40.34	40.60	301,306	439,749	100,262	303,198	53	70	46
Ida.....	47	45.85	53.83	45.28	383,412	668,967	186,628	440,775	49	66	47
Iowa.....	48	40.56	41.75	45.38	346,114	259,131	173,996	311,304	50	69	48
Jackson.....	49	33.11	32.85	32.98	66,365	44,714	188,793	198,793	64	73	49
Jasper.....	50	48.21	46.97	51.31	566,327	412,851	328,266	363,353	58	88	50
Jefferson.....	51	39.86	38.14	44.28	176,400	270,376	107,433	287,623	61	77	51
Johnson.....	52	49.93	50.00	55.15	139,620	390,996	90,096	196,280	65	85	52
Jones.....	53	45.62	44.65	47.31	146,747	176,690	102,368	147,943	69	83	53
Keokuk.....	54	42.54	44.70	45.05	361,760	1,066,586	293,866	939,187	56	88	54

TABLE VII—CONTINUED

COUNTIES	No.	Equal- ized Value Per Acre 1903	Equal- ized Value Per Acre 1907	Reported Value Per Acre 1909	Value of Lands Reported Transferred in 1908	Value of Lands Reported Transferred in 1902	Actual Value Placed on Same Tracts for Taxation 1909	Actual Value Placed on Same Tracts for Taxation 1903	Per Cent of Sale Value to 1909	Per Cent of Sale Value to 1903	No.
Kossuth.....	55	\$34.95	\$32.39	\$32.04	\$444,355	\$612,960	\$223,770	\$412,658	50	67	55
Lee.....	56	36.53	37.55	39.64	402,033	314,639	300,776	300,127	61	95	56
Linn.....	57	51.85	52.19	55.30	534,301	1,012,388	323,284	886,225	60	86	57
Louisia.....	58	40.56	41.31	43.62	123,976	409,362	71,556	334,728	58	82	58
Lucas.....	59	33.54	31.36	31.91	179,556	271,175	111,968	224,947	62	88	59
Lyon.....	60	39.40	37.70	39.65	427,680	484,280	261,960	358,630	61	74	60
Madison.....	61	38.85	35.91	35.64	337,318	463,495	194,344	351,332	50	76	61
Mahaska.....	62	43.88	43.61	43.88	164,940	512,869	89,040	396,049	54	77	62
Marion.....	63	39.69	40.96	40.51	281,184	408,459	154,113	357,730	55	87	63
Marshall.....	64	50.15	50.70	53.17	513,637	420,399	249,230	335,656	49	85	64
Mills.....	65	45.53	45.30	46.94	224,240	283,740	117,143	213,194	52	75	65
Mitchell.....	66	39.76	39.00	39.40	500,117	635,165	282,468	402,472	56	63	66
Monona.....	67	28.76	31.47	30.25	332,158	455,551	188,541	292,965	52	65	67
Monroe.....	68	33.23	34.47	35.30	113,322	200,125	79,443	174,674	70	87	68
Montgomery.....	69	46.96	47.71	48.50	448,560	502,907	200,448	365,772	45	73	69
Muscatine.....	70	50.28	51.17	51.77	667,811	292,842	357,501	270,958	54	93	70
O'Brien.....	71	42.27	39.82	39.96	330,284	278,468	203,046	293,857	49	71	71
Osceola.....	72	37.36	37.07	37.20	317,153	369,800	171,877	289,857	54	79	72
Page.....	73	47.86	50.14	52.90	633,115	919,710	295,913	720,568	47	78	73
Palo Alto.....	74	34.62	31.73	30.75	330,885	568,232	173,393	246,360	52	86	74
Plymouth.....	75	40.15	39.67	39.48	829,496	876,417	339,390	637,473	47	73	75
Pocahontas.....	76	44.03	38.57	40.47	311,632	531,174	158,236	426,154	51	80	76
Polk.....	77	57.96	62.89	60.00	297,162	289,888	169,572	270,130	55	93	77
Pottawattamie.....	78	47.90	50.83	52.48	579,302	463,798	314,492	434,156	55	93	78
Poweshiek.....	79	45.40	45.59	46.14	612,885	285,415	302,903	208,656	49	73	79
Ringgold.....	80	34.82	32.40	33.24	333,165	762,450	192,824	590,347	58	76	80
Sac.....	81	47.36	45.69	46.12	450,840	442,618	223,340	327,856	49	74	81
Scott.....	82	53.60	58.89	59.84	442,812	411,837	235,940	355,417	53	86	82
Shelby.....	83	41.22	38.89	42.21	617,745	146,958	291,833	112,313	47	77	83

TABLE VII—CONTINUED

COUNTIES	No.	Equal- ized Value Per Acre 1903	Equal- ized Value Per Acre 1907	Reported Value Per Acre 1909	Value of Lands Reported in 1908	Value of Lands Reported in Transferred in 1902	Actual Value Placed on Same Tracts for Taxation 1909	Actual Value Placed on Same Tracts for Taxation 1903	Per Cent of Sale Value 1909	Per Cent of Sale Value 1903	No.
Sioux.....	84	\$43.82	\$43.37	\$43.41	\$684,602	\$480,690	\$362,266	\$396,467	53	80	84
Story.....	85	49.71	48.56	49.16	533,850	526,779	250,652	383,352	47	73	85
Tama.....	86	48.53	45.68	43.36	542,200	541,489	284,336	433,211	52	80	86
Taylor.....	87	40.63	37.52	38.03	397,225	239,570	231,864	179,660	58	75	87
Union.....	88	37.44	36.84	36.25	265,249	239,279	143,919	465,724	54	78	88
Van Buren.....	89	33.25	32.67	35.20	206,024	269,250	141,821	214,781	69	80	89
Wapello.....	90	33.18	37.87	36.02	168,298	96,543	83,384	71,269	50	74	90
Warren.....	91	41.80	43.58	44.31	480,344	361,970	329,964	361,328	69	100	91
Washington.....	92	44.38	44.75	46.69	720,742	733,775	354,360	647,857	49	82	92
Wayne.....	93	34.20	33.20	34.73	397,090	185,512	128,669	161,566	32	87	93
Webster.....	94	44.29	41.03	42.53	544,824	742,039	298,073	622,478	55	84	94
Winnebago.....	95	34.21	31.43	30.83	538,610	676,519	301,212	698,361	56	116	95
Winneshek.....	96	37.46	37.83	37.86	98,172	414,976	63,374	327,298	66	79	96
Woodbury.....	97	35.38	35.71	37.18	333,520	325,259	169,488	254,447	51	78	97
Worth.....	98	35.97	35.78	36.23	224,070	362,021	121,716	225,257	54	62	98
Wright.....	99	39.43	39.17	39.83	551,008	637,305	392,423	383,425	55	60	99
Totals and averages.....		\$41.97	\$41.35	\$42.17	\$38,836,515	\$42,338,579	\$21,257,937	\$33,974,680	55	80	



of assessed to actual sale value was as follows in 1909: Adair, 52 per cent; Adams, 52 per cent; Appanoose, 75 per cent; Cass, 47 per cent; Davis, 78 per cent; Henry, 54 per cent; Monona, 52 per cent; Polk, 57 per cent; Warren, 69 per cent; Winnebago, 56 per cent. In every case a falling off is noted, and in some cases there is a marked decrease. It should be understood that these figures are by no means accurate. Every one knows that the assessed value is not 116 per cent of the true value in any county of Iowa. In fact the writer is convinced that careful research would show that it does not reach 100 per cent. The above data is therefore at best merely suggestive; and it is only when all the counties of the State are included, thus balancing the inaccuracies, that a conclusion of substantial value is reached.

The fact that the general average thus obtained for the ninety-nine counties gives a fairly trustworthy impression of actual conditions is apparent from an examination of Table VIII, and also the data given for Story County. The general average for 1909 according to Table VII was 55 per cent as compared with 51.56 per cent for the group of counties represented in Table VIII, and 52.52 per cent for Story County. Another significant fact is that more than three-fourths of the counties show an assessed valuation ranging from forty to sixty per cent of the actual value in 1909. The general average of 80 per cent for 1903 is obviously too high.

Table VIII was prepared by Mr. T. A. Polleys, Tax Commissioner of the Chicago, St. Paul, Minneapolis and Omaha Railroad. It gives numbers of acres sold, average price per acre for 1907, 1908, and 1909; average actual assessed value per acre for 1909; and finally the ratio of assessed value to sale price for the three years. Again this data is by no means accurate or complete, but it is none the less suggestive of conditions which everyone knows to exist. At-

tention is directed to the following percentages of assessed to actual sale value: Woodbury, 50.47 per cent; Plymouth, 49.40 per cent; Sioux, 49.14 per cent; O'Brien, 52.35 per cent; Osceola, 56.60 per cent; and Lyon, 53.81 per cent, thus making a general average of 51.56 per cent. The percentages for the same counties as given in Table VII are

TABLE VIII<sup>343</sup>

## RATIO OF ASSESSED TO SALE VALUES IN SELECTED COUNTIES

COUNTY	1907		1908		1909		Total 1907-09		Average Actual Assessed Value Per Acre in 1909	Ratio of Assessed Value to Average Sale Price for Three Years
	No. Acres Sold	Average Price Per Acre	No. Acres Sold	Average Price Per Acre	No. Acres Sold	Average Price Per Acre	No. Acres Sold	Average Price Per Acre		
Woodbury	13,192	\$60.04	9,154	\$60.89	8,932	\$67.89	31,278	\$65.01	\$32.81	50.47
Plymouth	21,999	68.94	21,588	73.91	17,462	85.13	61,049	76.24	38.04	49.40
Sioux.....	23,285	81.15	17,817	85.35	12,582	91.91	53,684	85.08	41.81	49.14
O'Brien....	13,544	70.66	14,857	76.38	11,575	79.80	39,976	75.04	39.28	52.35
Osceola....	15,689	59.78	12,100	64.53	8,192	62.43	36,981	61.26	34.67	56.60
Lyon.....	20,194	67.43	14,056	71.11	8,920	81.18	43,170	71.31	38.37	53.81
GROUP....	107,903	69.09	89,572	73.66	67,663	79.92	265,138	73.40	37.98	51.56

Statistics compiled by Hon. T. A. Polleys, Tax Commissioner of Chicago, St. Paul, Minn., and Omaha.

the following: Woodbury, 51 per cent; Plymouth, 47 per cent; Sioux, 53 per cent; O'Brien, 49 per cent; Osceola, 54 per cent; Lyon, 61 per cent, making a general average of 52.5 per cent. It is significant to note that while the percentage of individual counties varies, the general average not only remains almost the same but is practically a constant quantity for the State at large. In other words, it is quite apparent that the agricultural lands of Iowa are now assessed at about one-half of their actual sale value, which, considered in the concrete, means that land now having a sale value of \$100 per acre is valued on the assessment roll at \$50 and taxed at \$12.50 per acre. This, it should be understood, is descriptive of assessment in the aggregate and not of individual assessments.

Assessment data for Story County was collected under the supervision of Professor B. H. Hibbard of the Iowa State College. Here a thorough study was made — perhaps the most thorough that has been made for any county of the State. The investigation covered the years from 1905 to 1909, inclusive, and included seven hundred farm sales and two hundred ninety-three city sales. In each case the selling value was compared with the average of two assessed values, one before and the other following the sale. Doubtful sales were omitted as far as possible. The results of this investigation showed a ratio of assessed to sale value of 52.52 per cent for farm sales and 60.5 per cent for city sales. The ratio of 52.52 per cent for farm lands, which alone can be compared with the data given in Table VII, is nearly the same as the general average (55 per cent) of said table, but is higher by 5.52 per cent than the ratio there given for Story County. In other words, the investigations scientifically made for Story County substantiate the general conclusions drawn from Tables VII and VIII.

Such are the revelations of an examination, historical and critical, of the statistics of assessment and taxation in Iowa. This study, however, would be incomplete and would fail to give a correct impression of the defects in our revenue system if we neglected to note at least one important fact not revealed in the tables. Indeed, it is not too much to say that the most vital criticism of Iowa's assessment remains to be stated, namely: the gross, one is almost tempted to say criminal, inequalities of assessment that exist between individuals.

It is interesting to know that the average assessed value of horses in one county is ten dollars, and in another county forty dollars. It helps one in understanding the defects of our revenue system, if he learns that sheep and swine of the same grade or class are assessed on an average three



times as high in one county as in another. One should also study the percentage of assessed to true value of land in the various counties. The fact that one county reveals a general average of 75 per cent, a second 60 per cent, and a third 45 per cent throws some light on the administration of our fiscal system.

But when all is said along this line an understanding of these facts forms but an avenue of approach to a consideration of that most fundamental of all the defects in our revenue system, namely, inequalities of assessment as between individuals. It is quite impossible to make a critical study of such inequalities in this connection. To do this would be an important, perhaps the first, duty of a tax commission. Here only a statement of the problem will be undertaken.

The honorary Ohio Tax Commission mentions the following inequalities as between individuals: first, inequalities between the owners of real and personal property; second, inequalities among the owners of personal property; third, inequalities among the owners of real estate; fourth, inequalities between the owners of real estate and personal property, and owners of corporate property; and fifth, inequalities among corporations. Concluding their consideration of this subject, the commission says: "We have found that the general property tax is a failure for purposes either of revenue or equality; that more than half of the total wealth of the state in tangible property alone escapes taxation; that of intangible property, such as moneys and credits, stocks and bonds, subject to taxation under our laws, not ten per cent, perhaps not even five per cent, is listed on the duplicates".<sup>344</sup>

The Minnesota Tax Commission in its preliminary report held that "the evils of the general property tax center in the process of assessment".<sup>345</sup> The same commission, reporting later concerning inequalities between individual

parcels of land, said: "The discussion of inequalities between individual parcels of land resolves itself into the consideration of the shortcomings of local assessors. In different parts of the state great variances will be found in assessments, running from 5% of true value to 300%." <sup>346</sup>

After more than ten years of investigation, the Wisconsin Tax Commission has reached the same conclusion. In fact all authorities on taxation agree that inequalities of assessment which in the last analysis refer to inequalities between individual property owners, constitute the most vital defect of the general property tax.

This principle may be illustrated by concrete examples. Two persons, A and B, live in the same taxing district. Each owns \$25,000 worth of land. A's land is assessed at \$10,000 or 40 per cent of the actual value. B's land is assessed at \$20,000 or 80 per cent of the actual value. In each case the rate of taxation is the same. A pays \$100 in taxes, and B pays \$200 on the same amount of property and under the same conditions. Two other persons, A and B, hold equal amounts of property, and are taxed at the same rate. A owns \$10,000 worth of land and pays taxes on \$8,000. B owns \$10,000 in personal property and pays taxes on \$1,000. In other words, A pays eight times the amount of B on the same value of property. Such illustrations could be multiplied indefinitely. One property owner is taxed on the full value of his property, a second on fifty per cent of the actual value, and a third evades all taxation.

Such are the actual conditions, not only in Iowa but in other States of the Union. No one denies the truth of the fiscal law that all persons should contribute to the support of the government according to their ability to pay. How to measure this ability to pay, fairly and honestly as between man and man, is one of the leading problems of the future, and one which the people and the law-makers of Iowa must have the courage to face squarely, and honestly endeavor to find a solution.





## PART II

### SOME SPECIAL PROBLEMS IN TAXATION



## VI

### THE TAXATION OF BANKS

Iowa was admitted into the Union at a time when the business of banking was much discredited especially in the popular mind of the West. The reckless systems of banking that had prevailed and the heavy losses resulting therefrom were responsible for this condition. Accordingly, there were extended debates on the proposition of banks or no banks in the Iowa constitutional conventions of 1844 and 1846.<sup>347</sup> The final result of these discussions was a constitutional prohibition of banking in the following terms:

No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing or putting in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money. The General Assembly of this State shall prohibit, by law, any person or persons, association, company or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

2. Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the General Assembly shall provide, by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited.<sup>348</sup>

The *Code of 1851* also contains stringent statutory prohibitions. Among other things it is provided that "no person, association, or corporation shall issue any bills, drafts, or other evidences of debt to be loaned or put in circulation as money or to pass or be used as a currency or circulating medium; and every person, association, or corporation, and every member thereof who violates the provisions of this



section shall be punished by fine not exceeding one thousand dollars''.<sup>349</sup> In fact the law against membership in banking associations was made even more drastic; members of such associations were to be punished by imprisonment in the county jail not exceeding one year or by a fine of not more than one thousand dollars.<sup>350</sup>

A careful reading of the Constitution of 1846 and the *Code of 1851* reveals the fact that what the framers of the Constitution and those who enacted the Code had in mind were banks of issue rather than ordinary banks of discount and deposit. Not only was banking carried on between 1846 and the adoption of the Constitution of 1857, but provision was made in the *Code of 1851* for the taxation of the shares of stock in banks. Among other things, property liable to taxation was made to include "stock or shares in any bank or company incorporated or otherwise, and whether incorporated by this or any other state, and whether situate in this state or not."<sup>351</sup>

Other provisions of the *Code of 1851* relate indirectly to the subject of banking and should be studied in connection with court decisions. The term "credit" includes every claim and demand for money, labor, or other valuable thing, every annuity or demand for money receivable at stated periods, and all money in property of any kind, secured by deed, mortgage or otherwise, said credits to be listed at such sum as the person listing them believes will be received or can be collected. It was finally stipulated that depreciated bank notes and depreciated stock or shares in corporations or companies "may be listed at their current value and rate".<sup>352</sup> Such was the constitutional and statutory law relative to banking until the adoption of the Constitution of 1857.

The Constitution of 1857 contains at least eight sections which relate directly to the subject of banking. It provides that "no act of the General Assembly, authorizing or creat-

ing corporations or associations with banking powers, nor amendments thereto shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election."<sup>353</sup> Subject to this provision the General Assembly was given power to establish a State bank with branches and to enact a general banking law; but no political or municipal corporation was permitted to become a stockholder in any banking association directly or indirectly.<sup>354</sup>

In 1858 an act was passed entitled "An Act authorizing General Banking in the State of Iowa."<sup>355</sup> Shares of stock in banking corporations are declared to be personal property, and provision is further made for the levy of taxes upon the corporation as such, and not upon the individual stockholders. The value of the property is to be ascertained annually by the bank commissioners, and the rate of taxation to be made the same as that required to be levied on other taxable property by the revenue laws of the State.<sup>356</sup>

A second act passed in 1858 was entitled "An Act to Incorporate the State Bank of Iowa."<sup>357</sup> The only section of this act which relates to taxation provides that the General Assembly shall never impose any greater tax upon property employed in banking than is imposed upon the property of individuals.<sup>358</sup>

The *Revision of 1860* contains no additional provisions of importance relative to bank taxation. Further legislation, however, was soon rendered necessary by the act of Congress creating a national banking system. The General Assembly which met in 1866 took up the question of taxing this class of banks, a bill being introduced to provide for the taxation of the currency of national banks.<sup>359</sup> A substitute, however, was presented providing for taxing the

shares of stock. Senator J. B. Leake believed that the act of Congress which established the national banking system prohibited the States from levying a tax on circulation. He said: "To tax the circulation would be to tax what they owe, not what they own. The national banks can be taxed on their shares if at all, as the State banks have been taxed, and to do that I think the machinery provided by law amply sufficient; but if not it can be easily amended, so as to enable assessors to include such shares in the tax lists."<sup>360</sup>

After considerable debate the majority were disposed to favor the taxation of shares of stock rather than circulation. A few days later an amendment was introduced to exempt the real estate from taxation on the ground that to tax the shares of stock and also the real estate would be double taxation. The amendment, however, was lost by a decisive vote.<sup>361</sup> The substitute bill providing for the taxation of shares of stock then passed the Senate with only five negative votes.<sup>362</sup>

As approved April 2nd the measure provided that all shares in national banks should be included in the valuation of the personal property of "such person or body corporate or corporation" for assessment in the township, incorporated town or city where such banking associations were located and not elsewhere, but not at a greater rate than was assessed upon other moneyed capital in the hands of individuals. The real estate was subject to State, county, or municipal taxes the same as other real estate. Each banking association was further required to list the shares, giving the name of the owner and the amount owned by each, and was finally made liable for the payment of the tax as the agent of each of its shareholders under the provisions of section 725 of the *Revision of 1860*.<sup>363</sup> In fact it was made the duty of a national bank "to retain so much of any dividend or dividends belonging to any shareholder as shall be necessary to pay any taxes levied upon his or her shares."<sup>364</sup>



But the taxation of national bank shares was not to be an established fact without a struggle in the courts. In 1867, only one year after the passage of the act, the Supreme Court of Iowa declared it to be unauthorized and invalid.<sup>365</sup> This decision is worthy of careful study, especially from the standpoint of later judicial opinions.

The Iowa court followed the opinion of the Supreme Court of the United States in the case of *Van Allen vs. The Assessors*,<sup>366</sup> wherein it appears that the State of New York had passed a law providing for the taxation of national bank shares while other banks were taxed on their capital. The New York law was held to be illegal and void for the reason that it did not comply with the forty-first section of the act of Congress which provided "that the tax so imposed under the laws of any state upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state where such association is located."<sup>367</sup> It was held in the *Bank of Commerce vs. New York City* that a tax on capital would permit the exemption of non-taxable United States securities, a privilege which would not extend to the stockholder.<sup>368</sup>

After carefully reviewing all Iowa laws relative to bank taxation, Judge Wright of the Supreme Court of Iowa said: "We contend, that the system of taxation thereby provided for, is, that the corporation itself is to be taxed, precisely as though it were an individual, upon its actual taxable property, real and personal; and that the individual stockholders are not to be taxed upon their shares of stock.

"If this position be sound", continues the Judge, "it follows, of course, that these banks cannot be taxed, upon any portion of their capital or assets, invested in the bonds of the United States, any more than an individual can be so taxed; and thus the precise state of things, determined in *Van Allen vs. The Assessors* to be fatal to the power of the

State to tax shares of stock in national banks, will have been demonstrated to exist in this State, and that decision will be brought to bear, incontrovertibly, upon the present case''.<sup>309</sup> It was further held in the majority opinion that to tax the capital and also the shares of stock would be double taxation.

Judge Cole in a dissenting opinion maintained, however, that taxation was the rule, and no property should be exempted save by act of the General Assembly. He held that our revenue law provided for the taxation of all real and personal property, also for the taxation of stock or shares in any corporation; and he pointed out in conclusion that by a decision of the Supreme Court of the United States shares of stock had been declared property other and different from the capital, and therefore liable to taxation as such. "I should therefore invert the rule of the majority opinion", he said, "and instead of holding that the legislative intent to tax them, must be made clear and certain, I would hold that, being property, they are legitimately liable to taxation, and should be taxed unless the legislative intent to exempt them from taxation is made clear and certain."

Referring to the majority opinion Judge Cole further states that "it, to a greater or less extent, assumes, that the taxation of the capital stock of our State banks, and the taxation of the *shares* therein also, would be double taxation, and it is directly stated, that before the shares could be properly taxed the legislative intent to tax them should be clear and certain.

"However much I might, upon original principles, agree with the writer of the majority opinion, in the view that the distinction between *capital* and *shares*, as held by the Supreme Court of the United States, is arbitrary and without foundation in principle, yet that question was properly before that court, and the distinction was clearly held and made the basis of its judgment. It was a question upon which

the decision of that court becomes legitimately binding upon us. I accept it in all its force, and insist on its application in these cases.’’<sup>370</sup>

As a result of this decision, the subject of taxation of national banks was brought before the General Assembly in 1868, when Senator Fairall offered the following resolution:

That it is the sense of the Senate that the shares in national banks ought to be rendered subject to taxation the same as other property, and that the Committee on Banks is hereby instructed to report, at as early a day as practicable during this session, a bill in accordance with the views herein expressed.<sup>371</sup>

This resolution was adopted by a unanimous vote, and a law was promptly passed with practically no opposition. The new act followed the main outlines of the law passed in 1866, but provided in addition that, in case Congress changed or amended the national bank acts, the amendment should be made “in such manner as to conform to such altered or amended act of Congress”; and it was further stipulated that “all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed”.<sup>372</sup>

No time was lost in bringing the new law before the court for adjudication.<sup>373</sup> Judge Wright again delivered the opinion of the Supreme Court. He held first, that the repealing clause contained in the act of 1868 repealing all acts and parts of acts inconsistent therewith removed the objections specified in *Hubbard vs. The Board of Supervisors*,<sup>374</sup> thus authorizing the taxation of shares in the State bank; second, that exemption from taxation must rest upon some clear and just ground, courts not being justified in making nice distinctions to defeat the legislative will; and third, that the constitutional provision which declares that no act of the General Assembly authorizing or creating corporations with banking powers, nor amendments thereto, shall take effect until the same shall have been submitted to and received a



majority vote of the people does not apply to nor operate as a limitation upon the repealing power of the legislature. The Supreme Court held therefore that the new act of 1868 was authorized and valid, it having received the two-thirds vote of the legislature required in such cases.<sup>375</sup>

The language of Judge Wright in reference to section 1598 of the *Revision of 1860* is significant. It should be stated that this section provided for the levy of taxes on the corporation and not upon the individual stockholders, the value of the property to be ascertained and made the basis of assessment. Concerning the repeal of this section Judge Wright said: "But for this provision, I am not mistaken in saying that the taxation would have been sustained. For it is expressly provided that stock or shares in any corporation or company, not required by law to be otherwise taxed, shall be liable to taxation".<sup>376</sup> The power of the State to tax national bank shares was thus finally and fully sustained.

In 1870 the general banking act passed on March 22, 1858, was repealed.<sup>377</sup> The State bank act which was passed on March 20, 1858, was also repealed, and the officers of that bank were required to proceed immediately to wind up the affairs of the same by redeeming the notes and paying all outstanding liabilities.<sup>378</sup> This action was rendered necessary by an act of Congress levying a tax of ten per cent on State bank notes, thus making that form of note issue impossible.<sup>379</sup>

Further contention soon developed in regard to the taxation of national bank shares. In the *First National Bank of Iowa City vs. Hershire*<sup>380</sup> it appears that Chief Justice Day held that the tax under the law must be assessed against the shareholder, and that this form of taxation did not authorize the seizure of the property of the bank for its liquidation. In *Hershire vs. The First National Bank of Iowa City*, adjudicated two years later, the language of the court

was somewhat more specific. It was held that to render a national bank, organized under the Federal banking act, liable for the payment of taxes due from its shareholders, it must be shown that the bank has or has had in its possession dividends or other money or property belonging to the delinquent shareholder.

The court held that the shares of capital stock were under the control of the shareholders and not under the management or control of the banking association as such. The stockholders had the absolute power of sale and alienation of their shares. Following this reasoning the court concluded that "the banking association is not liable for the tax due from shareholders, under the statute, simply because they are holders of shares in the capital stock of such banking association".

Shares in a national banking association are characterized by Judge Cole in these words: "The shares in the capital stock of the banking association are the property, and under the control of the shareholders. They are not under the control or management of the banking association in any legitimate sense. Even if it be granted that the rules or by-laws of every banking association require, that in order to constitute a valid and complete transfer of such shares the same must be entered upon the stock-book of the association, yet this could not limit or restrain the absolute power of sale and alienation by the shareholder himself, and doubtless, any refusal to enter such transfer upon the stock-book might be over-ruled, and corrected by mandamus or other proper remedy. Of course we are not here questioning or discussing the right of the banking association to retain the dividend for the purpose of paying the taxes, or of providing by rule or by-law, properly made and recorded, for the liability of the shares themselves for any indebtedness of the shareholder to the bank, or the like, so that any transfer of such shares could not affect the right of the bank

as against a purchaser having notice of such by-law. All that we intend to say here is, that the shareholder himself in legal contemplation owns, controls, and manages his own shares, nothing different in fact being shown. And hence, the banking association is not liable for the tax due from shareholders, under our statute, simply because they are holders of shares in the capital stock of such banking association. Other averment and showing must be made that the shares are in fact under the control or management of the association, before it can be made liable.'<sup>7881</sup>

The *Code of 1873* contains no additional law of importance relative to bank taxation. It should be noted, however, that private banks were taxed under section 812 which provided that personal property should be listed and assessed each year in the name of the owner. The Fifteenth General Assembly (1874) passed an act to amend this section by inserting after the word January in the third line the words: "Except moneys and credits of associations, organized under the general incorporation laws of this state, for the purpose of transacting a banking business, and moneys and credits of private bankers, and others who have loaned money, bought notes, mortgages, or other securities within the year previous to the time of assessing; in every such instance the average value of the moneys and credits which have been in the possession or under the control of the person making the list during the year previous to the time of making said assessment, shall be listed for taxation."<sup>7882</sup> This meant the taxation of private bankers on the average amount of moneys and credits in their possession or under their control during the previous year.

A second act was also passed in 1874 providing for the organization and management of savings banks. As to taxation the act provided that "the paid up capital of all savings banks organized and doing business under this act shall be subject to the same rates of taxation and rules of



valuation as other taxable property, by the revenue laws of the state, which taxes shall be levied on and paid by the banks and not the individual stockholders, and the general assembly shall never impose any greater tax upon property employed in banking under this act than is or may be imposed upon the property of individuals. The franchise of all such banks, the savings and funds deposited therein, and the mortgages and other securities, wherever the same are invested, are not to be taxed, but are expressly exempted therefrom, and may be omitted from assessments of the bank required by the revenue laws of this state".<sup>383</sup> This section is self-explanatory. The tax is to be levied on the paid up capital, which does not mean the shares of stock, and thus a new door is opened for legal controversy.

During the years that immediately followed the passage of the act of 1874, a number of important bank tax cases came before the Supreme Court. In *Branch vs. the Town of Marengo*,<sup>384</sup> Judge Rothrock held that a banker is liable to taxation only for such moneys and credits as are in his possession as owner, and not for those which he may hold as the custodian of others. "It is presumed", says the Judge, "that the customers of banks make returns of their moneys and credits, which would include bank deposits; and to give this section the construction claimed by appellant, would result in double taxation".<sup>385</sup> The alternative construction of the law, it is further maintained, whereby the banker would be considered owner of the deposits would also make him absolute debtor to the depositors for the whole amount thereof and entitle him to deduct the same.<sup>386</sup>

One or two cases relative to savings banks should be briefly considered. In the *German American Savings Bank vs. The City of Burlington*<sup>387</sup> Judge Day held that the capital of a savings bank to the extent that it is invested in bonds of the United States is exempt from taxation. This decision again opened up the question of taxing the shares of stock in

national banks. In *Davenport National Bank vs. Board of Equalization* <sup>388</sup> Judge Adams delivered an opinion, holding that the taxation of savings banks on their paid up capital while national banks were taxed on their shares of stock did not constitute a discrimination against national banks, in violation of section 5219 of the *Revised Statutes of the United States*. It was further alleged that some latitude in modes of assessment should be granted the General Assembly, even though the same did not result in absolute equality of taxation.<sup>389</sup>

The next act of importance in the history of bank taxation was passed in 1890 and provided for the assessment of the capital stock of State or commercial banks to the banks as such in the city or town where located, and not to the individual shareholders.<sup>390</sup> With national banks assessed to the individual shareholders, an important distinction was thus made between the two methods of assessment, and the door was again opened for further litigation.

Before considering the effect of this apparent discrimination, it will be instructive to note one or two additional cases relative to the taxation of national banks. A number of points had not been definitely settled. In *First National Bank of Albia et al vs. City Council of Albia* <sup>391</sup> the court held, first, that real estate which is otherwise assessed for taxation shall be deducted from the value of the capital stock; and second, that shares of capital stock are credits within the meaning of section 814 of the Code, and the taxpayer is therefore entitled to deduct from the value of his shares all debts owing by him in good faith.<sup>392</sup> The fact that real estate should be deducted from the actual value of the stock had been held in a number of important decisions of the Supreme Court of the United States.<sup>393</sup>

Regarding the deduction of debts, the Iowa Supreme Court followed the able opinion of Justice Harlan, which was in part as follows:

1. That the words "at a greater rate than is *assessed* upon other moneyed capital in the hands of individual citizens" refer to the entire process of assessment, which, in the case of national bank shares, includes both their valuation and the rate of percentage on such valuation; consequently, that the act of Congress is violated if, in connection with a fixed percentage applicable to the valuation alike of national bank shares and of other moneyed investments or capital, the State law establishes or permits a mode of assessment by which such shares are valued higher in proportion to their real value than is other moneyed capital.

2. That a State law which permits individual citizens to deduct their just debts from the valuation of their personal property of every kind, other than national bank shares, or which permits the tax-payer to deduct from the sum of his credits, money at interest or other demands to the extent of his *bona fide* indebtedness, leaving the remainder to be taxed, while it denies the same right of deduction from the cash value of bank shares, operates to tax the latter at a greater rate than other moneyed capital.<sup>394</sup>

In the case of *Farmers and Traders' National Bank vs. Chas. Hoffman*, the Iowa Supreme Court took an additional step by declaring that national bank stock cannot be assessed as the personal property of the bank without the listing or mention of the shareholders. This construction was rendered necessary, in the opinion of the court, to make it possible for stockholders to deduct their indebtedness as provided by law. Otherwise they would be assessed at a higher rate than was imposed upon other moneyed capital in the hands of individuals.

It has already been pointed out that different methods of assessment were adopted by the General Assembly for State and commercial banks as opposed to national banks. The legality of this dual system soon came up for adjudication. In *Primghar State Bank vs. Henry Rerick*, the law of 1890, providing that the shares of capital stock of State banks shall be assessed to the bank and not to the individual shareholder, was sustained. It was declared to be a general



and not a special law for the assessment and collection of taxes.<sup>395</sup> The fact that State and commercial banks belonged in a separate class from national banks was clearly stated by the court. The whole question of bank taxation was reviewed in this important case and the conclusion reached that three classes of chartered banks exist in Iowa from the standpoint of assessment and collection of taxes: first, national banks; second, State and commercial banks; and third, savings banks.<sup>396</sup>

Since the *Code of 1897* became operative bank taxation in Iowa may be summarized as follows: first, private banks are assessed on the aggregate value of moneys and credits, after deducting therefrom the amount of deposits and of debts owing by such banks, and the aggregate actual value of bonds and stocks, after deducting the portions thereof exempt, or otherwise taxed in this State, and also the other property pertaining to the business; second, national bank shares are assessed to the individual stockholders at the place where the bank was located; and finally, the shares of stock of State and savings banks and loan and trust companies are assessed to such banks and loan and trust companies and not to the individual shareholders.<sup>397</sup> To aid the assessor in fixing the value of such shares it is further stipulated that the banking corporations shall furnish a verified statement showing separately the amount of their capital stock, surplus, and undivided profits.<sup>398</sup> In other words, the law virtually provides that national, State and savings banks, and loan and trust companies shall pay taxes on their capital stock, surplus, and undivided profits. The only distinction made in the case of national banks is that the shares of stock are assessed to the individual stockholder at the place where the bank is located and not to the bank itself.

This law, with a slight amendment regarding the deduction made of real estate, still prevails in Iowa. The amend-

ment referred to provides that: "in arriving at the total value of the shares of stock of such corporations, the amount of their capital actually invested in real estate owned by them and in the shares of stock of corporations owning only the real estate (inclusive of leasehold interests, if any) on or in which the bank or trust company is located, shall be deducted from the real value of such shares, and such real estate shall be assessed as other real estate, and the property of such corporations shall not be otherwise assessed."<sup>399</sup>

In *W. S. Judy, County Treasurer, vs. The National State Bank, of Mt. Pleasant* <sup>400</sup> it was held that before a county treasurer can collect taxes on omitted property he must list it the same as an assessor. In the absence of a regular assessment no tax on omitted property can be collected. In April, 1903, Judge McClain reviewed the whole subject of bank taxation and rendered an important decision from the standpoint of the provisions of the *Code of 1897*. He held that the method of taxation of national banks is substantially the same as that provided for State and savings banks; and the fact that government bonds owned by a national bank are to be considered in estimating the value of its shares of stock for taxation, while a private bank is assessed on its moneys and credits after making certain deductions, including government bonds owned by it, is merely a distinction in the method of taxation and not a discrimination against national banks.<sup>401</sup>

In conclusion it may be said that the history of bank taxation in Iowa, while complicated in detail and a subject of almost constant litigation before the courts, is nevertheless characterized by a few well defined principles. Banks of issue were prohibited by the Constitution of 1846; but banks of discount and deposit existed, and in fact provision was made in the *Code of 1851* for the taxation of the

shares of stock in such banks. Following the Constitution of 1857, which contains elaborate provisions concerning banks, a general banking act and a State bank act were passed in 1858. The former act provided for the levy of taxes against the corporation as such and not against the individual stockholder, and the latter stipulated that taxes imposed should not be at a greater rate than was levied on the property of individuals. These laws, however, were repealed in 1870 as a logical result of the act of Congress imposing a tax of ten per cent on the circulation of State banks.

The act of Congress creating a national banking system as a war measure marked a new epoch in the history of bank taxation in Iowa as well as in other States. Years of litigation followed. In 1866 the General Assembly passed an act taxing the shares of stock in national banks. The banks were required to list the shares and in fact were made responsible for the tax as agents of the shareholders under the provisions of section 725 of the *Revision of 1860*. It was made their duty to retain that portion of the dividends necessary to pay all taxes levied against the shares.

This law was promptly declared unconstitutional on the ground that to tax national banks on their shares of stock while other banks were taxed on their capital constituted a discrimination against national banks. It was further held, first, that a tax on capital would permit the deduction of non-taxable securities, a privilege which would not extend to the stockholders; and second, that to tax capital and also shares of stock would be double taxation. In a dissenting opinion Judge Cole held that our revenue laws provided for the taxation of both capital and shares which had been declared to represent different forms of property by the United States Supreme Court.

In 1868 a new law was passed which followed the main outlines of the old act but provided for the repeal of all acts or parts of acts inconsistent with the provisions of the same.



The new act was at once brought before the Supreme Court which declared that the repealing clause removed the objections formerly made by authorizing the taxation of shares in the State bank. The *Revision of 1860*, section 1598, had provided for the levy of taxes on the corporations as such and not upon the individual stockholders. The repeal of this section, therefore, made it possible under the revenue laws to tax the shares of stock in all chartered banks, which was authorized and valid as it did not constitute a discrimination against national banks.

A tax on the shares of stock in national banks was thus finally sustained, although United States government bonds were considered in arriving at the value of such shares. It was later held, first, that to render a national bank liable for the payment of taxes due from its shareholders, it must be shown that the bank actually has in its possession dividends or other property belonging to the delinquent shareholder; and second, that shares of stock are not under the control or management of the banking association in any legitimate sense.

During this time the assets of private banking associations excluding real estate were listed and assessed as personal property. In 1874 an act was passed providing for the taxation of such banks on the average value of moneys and credits in their possession or under their control during the previous year. The same General Assembly also passed an act providing for the organization and management of savings banks and the taxation of the same on their paid up capital. The Supreme Court held that such paid up capital to the extent that it was invested in bonds of the United States was exempt from taxation.

More litigation followed; but the Supreme Court held that the taxation of savings banks on their paid up capital and national banks on their shares of stock did not constitute a discrimination against the latter. It was further al-

leged that this was a legitimate classification for the purpose of assessment even though it did not result in absolute equality of taxation.

In 1890 an act was passed providing for the assessment of the capital stock of State and commercial banks to the banks as such and not to the individual stockholders. This again opened the door to litigation. This classification for purposes of assessment was also upheld by the Supreme Court, although it was recognized that the new act did not permit the owners of capital stock in State and commercial banks to deduct their debts — a privilege granted to holders of national bank stock. In fact this was regarded as a mere incident and not a necessary result of the statute.

Finally, under the *Code of 1897* and the court decisions relative thereto, the following classes of banks for purposes of assessment and taxation have been clearly recognized: first, private banks taxable on their moneys and credits, including stocks and bonds after deducting deposits, just debts, and non-taxable securities; second, national banks, taxable on the shares of stock at the place where the bank is located; and third, State, savings and commercial banks, taxable on the shares of stock to the banks as such and not to the individual stockholders.

In a recent decision the Iowa Supreme Court has taken an additional step by holding that bonds of the United States may be considered in determining the value of shares of stock in national, State, or savings banks.

## VII

### THE TAXATION OF INSURANCE COMPANIES

Insurance companies were among the first of the corporations doing business under the laws of Iowa to emerge from the system of general property taxation. The plan of collecting revenue from these companies through the general property tax had at an early day proved to be impracticable. Accordingly, in the *Code of 1851*, in addition to certain corporations required to be taxed through the shares of their stockholders, it is specifically stated that insurance companies shall be taxed one per cent for county purposes and one per cent for State purposes upon the amount of premiums taken by them during the year previous to the listing. The agent in the county where the business is conducted is required to list and is made personally responsible for the tax.<sup>402</sup>

A similar section is found in the laws of 1858<sup>403</sup> and also in the *Revision of 1860*.<sup>404</sup> An act was passed, however, in 1868 entitled "An Act to Regulate Insurance Companies", which provided that "every insurance company doing business in this State shall at the time of making the annual statement, as provided in section twenty of this act, pay into the State treasury, as taxes, two per cent. of the premiums on risks in this State taken during the preceding year, taking duplicate receipts therefor, one of which shall be filed with the Auditor of State, and upon the filing of said receipt, and not till then, the said Auditor shall issue the annual certificate as provided in this act, and the said sum of two per cent. shall be in full for all taxes upon the cor-



poration or its shares under the laws of this State, except taxes on real property".<sup>405</sup>

The nature of the tax on premiums soon became a subject for judicial interpretation. In the *City of Dubuque vs. The Northwestern Life Insurance Company*<sup>406</sup> the Supreme Court held that the annual premiums of an insurance company received by an agent residing in a city are not subject to taxation as personal property under the power conferred upon the city by its charter to tax all real and personal property within its jurisdiction. Later in the same year a similar opinion was again handed down by the Supreme Court.<sup>407</sup>

The insurance legislation of 1868 was not long on the statute books: the Fourteenth General Assembly passed "An Act to Amend Chapters 138 and 173 of the Twelfth General Assembly, to Regulate Insurance Companies".<sup>408</sup> This act is memorable chiefly because of the discrimination and, what is more to be condemned, the cowardly spirit of retaliation which it reveals. An elaborate set of fees was to be collected from all insurance companies, heavier fees being required of companies organized outside the State. Then follows a section, by no means a credit to our lawmakers, which reads: "When, by the laws of any other State, any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions, are imposed, or would be imposed, on insurance companies of this state doing, or that might seek to do, business in such other State, or upon their agents therein, so long as such laws continue in force the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other State doing business within this State, or upon their agents here."<sup>409</sup> The act further provides that, in addition to the fees required, a tax of two and one-half per cent shall be levied on the "gross amount of premiums received in this state during the preceding

year", said tax to be "in full for all taxes, state and local". Joint stock and mutual companies organized under the laws of this State were not, however, required to pay this tax, such companies being assessed under the general revenue law.<sup>410</sup>

The following is the elaborate system of fees, outlined in section four of the act: upon filing declaration or certified copy of charter, twenty-five dollars; upon filing the annual statement, twenty dollars; for each certificate of authority, and certified copy thereof, two dollars; for every copy of any paper filed in the department, the sum of twenty cents per folio, and for affixing the official seal to such copy, and certifying the same, one dollar; for valuing policies of life insurance companies, ten dollars per million of insurance, or any fraction thereof; and for official examinations of companies under this act, the actual expense incurred. Companies organized under the laws of this State were required to pay the following fees: for filing and examination of the first application of any company, and the issuing of the certificate of license thereon, ten dollars; for filing each annual statement, and issuing the renewal of license required by law, three dollars; and for each certificate of authority to its agents, fifty cents.<sup>411</sup>

The only change to be noted in the *Code of 1873* is that mutual companies organized under the laws of Iowa are also exempted from the two and one-half per cent tax on gross premiums.<sup>412</sup> In fact no important change was made in the law relating to the taxation of insurance companies until the adoption of the *Code of 1897*. Two or three minor points, however, should receive brief consideration.

In 1870 complaints were made by a number of companies that they were unable to file their reports by January 1st, or thirty days thereafter, as required by law. Among these companies the Phoenix Life Insurance Company of Hartford, Connecticut, announced that it would be obliged to

withdraw from the State. It was pointed out in *The Iowa Daily State Register* that "figured down to sharp points, as the question now stands, we have less than half the companies legally doing business in the State that we had last year, and our revenue from them is less than one-fourth the amount received last year. The law as it now stands is wrong. The Senate passed a bill yesterday which is essentially just, and is substantially the same as recommended by the Governor in his message and the Auditor in his biennial report."<sup>413</sup> An act was passed releasing certain penalties and fixing April 1st as the date for filing the annual statement.<sup>414</sup>

From time to time there is evidence of a growing desire to discriminate against insurance companies organized outside of Iowa. As an illustration of extreme public opinion on this subject, a bill was introduced into the General Assembly of 1884 to forbid any insurance company from taking any lawsuit into the United States Court under penalty of being driven out of the State.<sup>415</sup> Many other efforts were made to pass discriminating or retaliatory legislation.

In March, 1888, an important decision relating to the taxation of insurance companies was handed down by the Supreme Court in the case of *The Equitable Life Insurance Co. vs. the Board of Equalization of the City of Des Moines*.<sup>416</sup> Judge Beck held that so much of the assets of a life insurance company as consists of securities for loans, notes taken for premiums, municipal bonds and warrants, and cash and cash items is taxable as moneys and credits. In listing said moneys and credits for taxation the debts of the company, however, should be deducted. It is further stipulated that among such debts are: first, the debt of the company to its stockholders represented by the amount each stockholder would be entitled to receive from a present distribution of the moneys and credits of the companies; and second, the amount owed to the policy-holders, represented



by the reserve fund required by law. In other words where the amount of debts exceeds the amount of moneys and credits, it was held that a company was not taxable on account of said moneys and credits.

In this important case the Supreme Court first sustained the lower court and the board of equalization,<sup>417</sup> holding that the assessment of moneys and credits had been valid. But a re-hearing was granted and the case thoroughly argued. It was upon the re-hearing that the above decision was rendered by Judge Beck, wherein he held that "the amount of plaintiff's indebtedness to its stockholders and policyholders exceeds the amounts of its moneys and credits."<sup>418</sup> It was said in *The Iowa State Register* that "had the former ruling been adhered to the home companies would have been taxable on the large deposits which they are compelled by law to make, and would have been driven out of the State."<sup>419</sup>

The *Code of 1897* contains important changes in the law relative to insurance taxation. A threefold classification of insurance companies is made for purposes of tax discrimination. In the first class belong all insurance companies organized outside of the United States, which are required to pay into the State treasury three and one-half per cent on their gross premiums received in Iowa during the preceding year. The second class includes those companies organized or incorporated under the laws of any State of the United States other than the State of Iowa. Such companies are required to pay into the State treasury two and one-half per cent on their gross premiums. The third, or residual claimant class is made to include every other insurance company or association doing business in this State, not including those otherwise taxed under the provisions of this section, and not including county mutuals and fraternal beneficiary associations. This class is required to pay into the State treasury one per cent of the gross

amount received by it on assessments, fees, dues, or premiums for business done in this State, after deducting the amounts actually paid for losses and the amount of premiums returned. It is finally stipulated that the taxes provided in this section shall be in lieu of all taxes State and local except taxes on real estate and special assessments.<sup>420</sup>

No time was lost in testing the constitutionality of this section of the *Code of 1897*. It was open to attack, first, from the standpoint of discrimination between companies, and second, because of the exemption of such companies from local taxation. The first point was adjudicated by the United States Circuit Court in *Manchester Fire Insurance Company et al. vs. Herriott, Treasurer of the State of Iowa*.<sup>421</sup> The bill in this case was filed on behalf of some thirty-two fire insurance companies doing business in Iowa but incorporated under the laws of Great Britain and other foreign countries. The opinion submitted by Judge Shiras covers a number of vital questions relating to the taxing power as limited and defined by the Constitution of Iowa and the Constitution of the United States; but in this connection the discussion will be confined to the chief point in controversy, namely, the nature of the tax on gross premiums which is defined as a license tax imposed as a condition to do business and not a tax upon the tangible property of the company.

It is in this connection that Judge Shiras said that "this license tax is the condition imposed by the state upon the privilege of engaging or continuing in business within the state. It is optional with the companies whether or not they will subject themselves to the burden, but they cannot enjoy the privilege of continuing in business in the state except upon compliance with the terms which the state has seen fit to impose as a condition to the exercise of the privilege."

The Judge admits that the burden is both in form and in substance a tax, although not a tax imposed upon the

tangible property of the companies. It is rather in the nature of a license fee imposed as a condition to do business, on the theory that the State has the right to prescribe the terms and conditions upon which any foreign corporation "not engaged in interstate commerce, or in the furtherance of the business of the United States", may enter or remain in the State.<sup>422</sup>

Referring to the Iowa insurance tax law, and having in mind the Manchester Fire Insurance case just reviewed, John Herriott writes that "the Iowa law imposing discriminating or differential taxes on insurance companies immediately achieved considerable notoriety throughout the country. Following close upon its enactment in 1897, similar measures were introduced in the Legislatures of other States. Marked opposition was naturally manifested against the Iowa act by foreign companies — not so much because the discriminations were excessive, but because of the precedent established, and measures were early taken to test the validity of the law".<sup>423</sup> Granting the constitutionality of discrimination as emphatically affirmed by Judge Shiras, Mr. Herriott in his report as Treasurer is inclined to doubt the wisdom of such a policy, which he says can lead to no beneficial results — a view that is well founded and in harmony with the best modern thought on the subject.<sup>424</sup>

In the same year another and far more important decision was handed down by the Supreme Court relative to the taxation of insurance companies. Reference has already been made to the two questions presented for adjudication: first, discrimination as between companies; and second, the exemption of such companies from local taxation. In *Hawkeye Insurance Co. vs. French* the District Court of Polk County held that the payment of State taxes as provided by law did not exempt an insurance company from local taxation. Referring to this decision Mr. Herriott said that if sus-



tained by the Supreme Court "it will be exceedingly difficult, if not impossible, with the Constitution as it is, to tax corporations in Iowa exclusively for State purposes according to the best methods of assessment in vogue in the majority of States".<sup>425</sup>

Notwithstanding this opinion the Supreme Court did affirm the decision of the lower court in *Hawkeye Insurance Co. vs. French*.<sup>426</sup> In this case, which is one of the most important and far reaching along the line of taxation ever adjudicated in Iowa, the opinion was written by Judge Deemer. After presenting a portion of section 1333 of the *Code of 1897* as referred to above, Judge Deemer quoted the following section of the same Code: "The shares of stock of any corporation organized under the laws of this state, except those which are not organized for pecuniary profit, and except corporations otherwise provided for in this act, shall be assessed to the owners thereof, at the place where its principal business is transacted, the assessment to be on the value of such shares on the first day of January in each year; but in arriving at the total value of the shares of stock of such corporations, the amount of their capital actually invested in real estate owned by them, either in this state or elsewhere, shall be deducted from the real value of such shares, and such real estate shall be assessed as other real estate, and the property of such corporation, except real estate situated within the state, shall not be otherwise assessed."<sup>427</sup> At the time of the commencement of the suits under consideration, Mr. F. A. French, an assessor of the city of Des Moines, was about to list the shares of the stock in the plaintiff companies under the provisions of this act.

The court held that the section<sup>428</sup> by which insurance companies organized under the laws of the State are relieved of all other taxes, State, county and local is contrary to that provision of the Constitution which requires that

“the property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals”<sup>429</sup>

The vital point in the decision can best be presented in the words of Judge Deemer. “Reduced to its last analysis”, he says, “the question is a narrow one, and must find its solution in the construction of the constitutional provision relied upon by appellee. That provision not only requires that the property of corporations be taxed, but that it be subject to taxation the same as that of individuals. This does not mean, of course, that the methods should be identical, but that the property of corporations organized for pecuniary profit should assume the same burdens as are placed upon the property of individuals, and that the taxes should be for the same purposes and objects. It will not do to say that the constitutional provision is a mere grant of power to the legislature to impose taxes on corporate property. That power would exist in the absence of any constitutional grant. Indeed, it is fundamental that a state constitution is not a grant of power, but a limitation upon the powers of government. Generally speaking, a state may do whatever is not prohibited by its constitution. *Morrison v. Springer*, 15 Iowa, 342; *Stewart v. Board*, 30 Iowa, 18. The language quoted then, was a command or direction to the legislature in the execution of a power inherent in it in virtue of sovereignty; and that was that taxes levied on the property of corporations shall be the same as those imposed upon the property of individuals. In other words, corporations shall bear the same burdens of taxation as individuals, and the objects and purposes of the tax shall be the same whether levied upon the property of an individual or of a corporation. The evident object of the constitutional requirement was to secure uniformity, and impose equal burdens upon the owners of all property which was under the protecting wing of the state, and it was but giving emphasis to that other provision of our fundamental law forbidding

the general assembly from granting to any citizen or class of citizens special privileges or immunities.’<sup>430</sup>

In order to form a comprehensive and just estimate of this case in all its bearings a detailed and critical study is necessary. From such a study it appears: first, that the court did not in any way interfere with the right of the General Assembly to adopt different methods for ascertaining values or to fix the situs of property for purposes of taxation;<sup>431</sup> second, that the evident purpose of the Constitution as understood by the court is to subject all forms of property both individual and corporate to the same burdens of taxation, the central thought being uniformity of taxation, not uniformity in method of assessment;<sup>432</sup> and third, that, while the opinion, considered as a unit, clearly interprets the Constitution as requiring equality of fiscal burdens and nothing more, such uniformity of taxation, when applied, is construed to mean the duty to pay certain local taxes.

In other words, two different views of the phrase “subject to taxation the same as that of individuals”<sup>433</sup> appear in this case: first, equality of fiscal burden; and second, the payment of taxes to the various units of government, State, county, and local. The obvious fact that one form of property may pay all its taxes to the State, a second to the county, and, if desirable, a third to some other local unit, and the true principle of uniformity not be violated, does not appear to be appreciated by the court. At least such a notion is not expressed, save indirectly in the recognition of the well settled fact that the General Assembly has the power to provide different methods of assessment and fix the situs of property for purposes of taxation.

The interpretation of that provision of our Constitution relating to equality and uniformity of taxation is stated by Judge Deemer in these words: “It is the provision of the act relieving companies that have paid a tax on gross income



from all other state and local taxes that is in issue. Under our law the individual pays taxes for state purposes, for county purposes, for city or municipal purposes, and for the support of schools. If section 1333 is valid in all its provisions, insurance companies are not required to contribute anything to the county, the city, or the school district. These burdens are removed from their shoulders, although they may have large interests which require protection at the hands of the county and the city. They contribute to the state fund alone, and no part of their contribution ever reaches the smaller subdivisions of government.”<sup>434</sup>

When this decision was rendered it received much attention from the press of the State. State Treasurer John Herriott had said in his report, while the case was pending, that, if the views of the lower court were sustained, it would jeopardize the State tax on telegraph, telephone, and express companies, and put insurmountable obstacles in the way of much needed tax reforms.<sup>435</sup>

Writing at the time the editor of the *Sioux City Journal* said: “The supreme court holds that the constitution means that corporations must pay taxes, not only to the same extent, but for the same purposes as individuals; hence the law is held unconstitutional. If it is unconstitutional as to insurance companies the law which turns the taxes of telegraph and telephone companies into the state treasury must also be held unconstitutional. The next legislature will have to entirely revise the system of taxing all these classes of corporations.”<sup>436</sup>

Two other points of interest are mentioned by the editor of the *Sioux City Journal*: first, that Senator Thomas A. Cheshire had been the father of the movement to annul these taxation laws; and second, that Attorney General Remley was pleased with the decision because it “means a revision of the methods of taxing railroads”—referring to a terminal tax law. Senator Cheshire at the time thought that

a repeal of these laws would make way for the so-called Cheshire amendment — a proposition to tax corporations on the market value of their stock.<sup>437</sup>

Other newspapers of the time placed a similar construction on the decision. The *Cedar Rapids Republican* observed that "the Supreme Court of Iowa created a sensation to-day by handing down a decision which completely knocks out the present system of assessing and taxing the insurance, express, telegraph, telephone, sleeping car and fast freight companies."<sup>438</sup> The *Burlington Hawk-Eye* and the *Iowa State Register* took a similar view. The language of the latter is especially clear and significant. Regarding the decision the editor said: "It holds that insurance and kindred corporations are subject to state, county, city and school taxes just as individuals are. Their capital stock and personalty, by this holding, are placed on a footing with their real estate, all being subject to the local tax levies, which formerly they escaped."<sup>439</sup>

Numerous other sources along the same line might be quoted, but enough has been presented to indicate the popular estimate of this important case. The fact is that it did result in a number of radical changes in our revenue laws. A State system of taxation for certain public service corporations it was generally assumed was made impossible by one stroke of the judicial pen. The movement toward the creation of State revenue sources was stopped, and in the opinion of Mr. Herriott, Iowa was compelled to return to the fiscal legislation of pioneer days.

The fact is, however, that the real nature of this decision and of another along similar lines written by the same judge<sup>440</sup> was generally misunderstood; and largely for that reason, its importance as a permanent factor in determining the character of fiscal reform was greatly overestimated by the public. There can be no doubt that the able opinion of Judge Deemer was fundamentally sound from a legal

standpoint. If that provision of the Constitution requiring the taxation of corporations on the same basis as the property of individuals has any significance, it means that all persons should contribute to the support of government according to their respective abilities. Each should bear his proper share of the public burdens according to our constitutional law — a beneficent principle which should not be violated by the mere association of individuals in a particular corporation. How to measure this ability to pay taxes will be a subject for separate study.<sup>441</sup>

In the second place it would also seem to be obvious that the situs of property has a very direct bearing upon the question of taxation. Not only should taxes be paid, it is alleged, according to the basic principle above stated, but they should be paid in a certain district, and the proceeds, at least in part, should pass to a certain local unit of government. This view seems to have had great weight with the court and not without good reason; for, in a large measure, it is sustained by an historical and critical study of the Iowa revenue system. There can be no dispute with the two fundamental legal doctrines stated by the court: first, equitable taxation; and second, that the situs of property should be considered in determining where taxes ought to be paid.

But after granting these contentions and therefore assuming that the principles of law as such have been correctly interpreted, the question still remains, what is meant by the situs of a certain class of property and how should it be determined? It will be apparent to the critical reader that this is primarily a question of economic facts rather than of mere legal opinions; yet these facts must be clearly understood, if the whole doctrine of equality and uniformity of taxation is to be anything more than a name. The fact that principles, legal or otherwise, though correct in themselves, may be so applied as to defeat their own purpose



and intent, is a commonplace of knowledge. Such we believe is true of the important decision now under consideration.

No economist would contend for a moment that, aside from real estate owned, office buildings, fixtures, etc., the business of insurance is local in character. From the standpoint of the General Assembly the true situs of this business is the State as such and not any local unit of government. The mandate of the Constitution (Article 8, Section 2), therefore requires the exclusive State taxation of this class of business, or in other words prohibits the local taxation of the same to the end that the underlying principle of equality and uniformity of taxation may be conserved. It is true, as stated by the court, that the General Assembly has the power to determine the method of assessment and fix the situs of property for purposes of taxation; but it is also obvious that, when a law is passed providing for the exclusive State taxation of local property or the local taxation of State wide property or business, the true principle of equality and uniformity of taxation is being violated, and it is, therefore, the business of the court to annul such a law in order to comply with the real purpose and intent of the Constitution. What is needed most of all in this connection is not better legal principles but a more thorough and scientific study of various classes of property and business in order that said principles may be correctly applied both by the lawmaker and the jurist. There is nothing in the Constitution which prohibits the exclusive State taxation of the business of insurance or any other business or form of property providing the true situs of the same is the State itself and not a particular locality. On the contrary both the spirit and letter of the Constitution of Iowa demand this form of taxation, and therefore place no legitimate barrier against the scientific reform of our revenue system.<sup>442</sup>

The relation of this decision to the taxation of certain

public service corporations will be studied in later chapters.<sup>443</sup> Following this decision the General Assembly in 1900 amended the law relative to the taxation of insurance companies by repealing the section exempting such companies from local taxes and requiring the taxation of their real estate and personal property together with their shares of capital stock as provided in Section 1323 of the Code.<sup>444</sup> It is further provided, however, that, in assessing the monies and credits of every insurance company, corporation, or association, organized under the laws of this State, except county mutuals and fraternal beneficiary associations, not organized for pecuniary profit, "the assessor shall ascertain the debts or liabilities, if any, of such corporation, company or association to its shareholders or other persons, which debts and liabilities shall be deducted, as provided in section thirteen hundred and eleven (1311) of the code, but in ascertaining the indebtedness or liability of such corporation, company or association, a debt shall be deemed to exist on account of its liability on the policies, certificates or other contracts of insurance issued by it equal to the amount of the surplus or other funds accumulated by any such corporation, or association, pursuant to law, its contracts of insurance or its articles of incorporation for the purpose of fulfilling its policies, certificates or other contracts of insurance, and which can be used for no other purpose."<sup>445</sup>

The one per cent license tax to be paid into the State treasury is retained in the law, and is levied on the gross receipts from premiums, assessments, fees, etc., after making certain deductions. In other words, the law is so framed that assets are offset by liabilities thus practically exempting Iowa companies from local taxation. Insurance business is of such a character that assets can easily be cancelled by liabilities, the whole process being simply one of subtraction. The House of Representatives hurried the bill

through without amendment in order to relieve insurance companies from additional taxation under the decision of the Supreme Court above outlined.<sup>446</sup> For reasons already outlined no other sane course was open to the General Assembly.

Since 1900 a number of amendments have been made which should be briefly noted. In 1902 the rate on the gross amount of premiums received by foreign insurance companies was decreased from three and one-half to two and one-half per cent.<sup>447</sup> Four years later an act was passed exempting from taxation the funds of fraternal beneficiary associations.<sup>448</sup> The Thirty-second General Assembly passed two acts relative to the taxation of fire insurance companies. Foreign companies doing a fire insurance business are allowed to deduct from the gross amount of premiums received the amount of premiums returned on cancelled policies issued upon property situated in this State.<sup>449</sup> Domestic companies are also permitted to make similar deductions.<sup>450</sup>

One more Supreme Court decision should be mentioned before concluding this narrative, namely *The Iowa Mutual Tornado Insurance Association vs. Gilbertson, State Treasurer*.<sup>451</sup> In this case the court held that the license tax on mutual insurance companies is not unconstitutional because county mutuals not organized for pecuniary profit are exempted. The distinction between county and State mutuals was considered to be a valid classification for purposes of taxation.<sup>452</sup>

Such is a brief review of the history of the taxation of insurance companies in Iowa. A special method of assessment and taxation was early devised for this class of corporations. In the *Code of 1851* there are provisions for the taxation of insurance companies, one per cent for county purposes and one per cent for State purposes, on the amount of premiums taken by them during the previous



year. The same law prevailed until 1868, when a new act was passed imposing a ten per cent tax on premiums exclusively for State purposes, such tax to be in lieu of all other taxes save those on real property.

Under this act the Supreme Court held that a city had no right to tax the premiums of an insurance company by virtue of the power conferred in its charter to tax all real and personal property within its jurisdiction. The law, however, was again changed in 1872, when retaliatory legislation was enacted imposing a list of discriminating fees on foreign companies and in addition a tax of two and one-half per cent on gross premiums in lieu of other taxes, State and local. Joint stock and mutual companies organized in Iowa were exempted from the tax on gross premiums.

This law remained in force until the enactment of the *Code of 1897*. In the meantime a decision was handed down by the Supreme Court of great importance to home companies. It was held that the assets of a life insurance company, consisting of cash and cash items, municipal bonds and warrants, securities for loans, notes taken for premiums, etc., were taxable as moneys and credits. But, fortunately for home companies, it was further stipulated that the debts which might be deducted should include, first, the average amount each stockholder would be entitled to receive from a present distribution, and second, the amount owed to policy holders represented by the legal reserve fund. In other words — thanks to the judicial pen — assets were cancelled by liabilities and therefore said companies were practically exempt from local taxation.

The *Code of 1897* recognized four distinct classes of insurance companies from the standpoint of taxation: first, those organized in foreign countries and taxed three and one-half per cent on gross premiums; second, those organized in other States of the Union, and taxed two and one-half per cent on gross premiums; third, county mutuals and

fraternal beneficiary associations which were exempt from taxation; and finally, the residual claimant class which was required to pay one per cent on the gross amount of assessment, fees, dues, or premiums for business done in Iowa after deducting the amounts paid for losses and premiums returned. Such taxes were paid into the State treasury, and were in lieu of all other taxes, State and local, except taxes on real estate and special assessments. This act will be remembered as a masterpiece of aimless fiscal discrimination which could have but one logical result — retaliatory legislation in other States.

Nevertheless the classification was sustained by the Supreme Court on the ground that the tax was not levied on property but was rather in the nature of a license tax imposed as a condition to doing business in this State.<sup>453</sup> A second decision held that the provision exempting insurance companies from local taxation was contrary to that clause of our Constitution requiring all corporations doing business for pecuniary profit to be subject to taxation on the same basis as the property of individuals. The force of this decision, however, was promptly nullified by the General Assembly which passed an act in 1900 repealing the exemption clause but accomplishing the same purpose by framing the law so that assets would be offset by liabilities for purposes of assessment and taxation.

Since 1897 the rate on the gross premiums of insurance companies organized in foreign countries has been reduced to two and one-half per cent, acts have been passed relative to the taxation of fire insurance companies, and a license tax on State mutuals has been sustained by the Supreme Court.

## VIII

### THE TAXATION OF EXPRESS COMPANIES

The first law relative to the taxation of express companies was passed in 1868 and bore the title "An Act in relation to Revenue and Taxing the Property of Express Companies and Telegraph Companies."<sup>454</sup> In the early history of the State and during the Territorial period revenue was collected from corporations doing an express business under the general property tax. Later such corporations could be taxed through the shares of the stockholders.<sup>455</sup>

The law of 1868 provided a unique method of taxing express and telegraph companies. The property of such companies was to be listed as personal property "in the township, incorporated town, or city where such company or corporation shall have an office for the transaction of its business"<sup>456</sup> and assessed at the same rate as other personal property in the hands of individuals of the State. The law further stipulated the exact method of ascertaining the amount of personal property, which was to be equal to forty per cent of the total gross receipts "accruing from the business and earnings of such company for the year ending on the first day of January next preceding."<sup>457</sup> The tax thus determined was to be collected through the various agents of the companies. It was finally provided that "all real and personal property owned by any express company, or telegraph company, in this State shall be subject to State, county, and municipal taxes, to the same extent, according to the value, as other real estate is taxed".<sup>458</sup>

Two years later the act of 1868 was repealed, and it was



provided "that all property, real and personal, in the State, owned by telegraph and express companies, shall be listed and assessed for taxation, and shall be subject to the same levies, as property belonging to individuals".<sup>459</sup> The same provision is contained in the *Code of 1873*.<sup>460</sup>

This meant the general property tax again applied to the companies under consideration. That it soon proved to be a failure is evident from an examination of the Auditor's report for 1875. The Auditor explains the object of the law to be to secure uniform taxation, and he complains that local assessors are not able to reach the property of certain corporations. His words are significant and should be carefully weighed.

"The object of the law", writes the Auditor, "is to secure uniform taxation of all property within the State that is a proper subject thereof, without regard to ownership or condition. It is a well-known fact, however, that certain kinds of property in the State almost wholly escape taxation; and this, not because of the fault of the assessor, but rather on account of the impracticability of assessment as required. Conspicuous in this regard is the property of the various Telegraph, Express, and Pullman Car Companies, and Fast Freight lines, which to a very large extent is in constant use in the State, yielding large revenues to the proprietors, and yet almost entirely escapes contributing a due proportion to defray the expenses of the government which protects this same property to its owners. Under our present system this matter is entirely in the hands of the township and local assessors, the majority of whom can not, in the very nature of things, fix an approximately correct valuation upon such kinds of property. The fact is, it is but rarely attempted. The people, generally, are not familiar, either with the cost of construction, nor the expense of operation, nor the revenues derived therefrom, and as a result the vast interests and capital concentrated in such property are

disregarded in assessment, and the local and State government deprived of legitimate revenue. There is no good reason why these companies should not be made to bear their just proportion of the taxation of the country. Would not the desired result be attained, if such corporations and property were assessed in the same general manner as is now done with railways, and either a general levy be made by the same authority and the tax collected thereon apportioned to the counties entitled thereto, or the assessment be certified as with the railways, and taxes levied by the local authorities? No doubt there are other kinds of property which should be mentioned equally with those above, that escape the vigilance of the assessor for like reasons. It is estimated that over one-third the wealth of the country contributes little or nothing towards the expenses of government. Any and every movement on the part of the proper authorities, in the general direction indicated, would be a step in the right direction, and an earnest of intention to compel every species of property to bear its just proportion of the public burden."<sup>461</sup>

At the present day no well informed person would doubt the truth of these statements. Local assessment proved a failure in Iowa more than a generation ago not only for express companies but also for all other State wide public service corporations. This was true for the obvious reason that local officials in the very nature of things could not ascertain the cost of construction, expense of operation, and revenues enjoyed by such corporations, data without which no intelligent assessment is possible. How the Executive Council now deals with this same problem will appear later.

Nothing of importance was done, however, relative to the taxation of express companies for nearly a quarter of a century. In 1896 Senator Funk introduced a bill <sup>462</sup> defining express companies and providing that such companies be required to pay two dollars for every one hundred dollars



of their gross receipts. Considerable discussion followed. Hearings were granted to the agents of express companies and an agreement was reached to fix the rate at one dollar for every one hundred dollars of gross receipts. "We have found that", said Senator Funk, "comparatively speaking, the assessor has been able to find no property whatever in this state on which they can compel them to pay taxes."<sup>463</sup> The bill passed with little opposition and was approved April 14, 1896.<sup>464</sup>

Briefly stated the law simply provides a one per cent tax on gross receipts plus a taxation of their tangible property in the manner that other tangible property is assessed and taxed. No change of rate appears in the *Code of 1897*;<sup>465</sup> but in 1898 the tax was increased to two dollars for every one hundred dollars of gross receipts as provided in the original Funk bill introduced in 1896.<sup>466</sup>

While, however, these changes were taking place another movement was on foot to provide an entirely new system of taxing express companies and certain other public service corporations. The leader of this movement, which took definite shape as early as 1897, was Senator Thomas A. Cheshire. The decision of the Supreme Court in the case of *Hawkeye Insurance Co. vs. French*,<sup>467</sup> which required or appeared to require certain public service corporations to pay not only State but also county and local taxes, seemed to necessitate a complete change in the system of taxing express companies. In fact Senator Thomas A. Cheshire, the author of the new series of bills for taxing express, telephone, and telegraph companies, had been very active in his efforts to overthrow the old gross receipts State system.<sup>468</sup>

The new bill providing for the taxation of express companies introduced in 1900<sup>469</sup> was quite similar to our present railroad tax law.<sup>470</sup> The unit rule of valuation was to be applied on a somewhat different basis, but the method of tax distribution is essentially the same. Under the pro-



visions of this bill an elaborate report is required showing the name of the company, principal place of business, number of shares of stock, together with the par, market, actual, or face value of the same, and many other items.<sup>471</sup>

Such a report being placed before the Executive Council by the Auditor of State together with any further information which may be required, it becomes the duty of the Council, as outlined in the fourth section of the bill, to ascertain, first, the actual value of the entire property of express companies, and second, the actual value of their property within the State after deducting "the actual value of all the real estate, structures, machinery and appliances within the state that are subject to local taxation within the counties, towns, and other assessment districts". The value thus ascertained is to be distributed among the counties on a pro rata mileage basis and re-distributed by the county boards of supervisors in the same manner among the local taxing districts of each county.

In view of the controversy which followed relative to the method of assessment applied to express companies as outlined in this important bill, it may be well to state briefly the exact steps in the process. In the first place the total value of an express company is to be determined by adding to the market value of the stock the aggregate amount of the bonded debt or mortgages. Then from the gross actual value of the property thus ascertained is deducted the actual value of the several pieces of real estate situated without the State and not used in the general business of the company. Thereupon the executive council shall next ascertain the actual value of the property of such real estate without the state, which the length of the routes within the state of Iowa, bears to the whole length of the routes of such company, and such amount so ascertained, shall be considered and taken to be the entire actual value of the property within the state. Finally, from this amount is de-

ducted the actual value of all real estate, structures, machinery, and other appliances within the State subject to local taxation, and the remainder is distributed on a pro rata mileage basis the same as railroad property.<sup>472</sup>

No serious opposition, however, was made directly to the express company bill; but a long controversy was waged over the telephone and telegraph bills, which were also introduced by Senator Cheshire.<sup>473</sup> The result was that the bill providing for the taxation of express companies was indirectly brought into the debate. The chief argument urged against the bill was that the unit rule of valuation was so applied as to include property for taxation which actually belonged outside the State. It was also claimed that the hard and fast method of valuation was a discrimination against express companies, and that, including the value of the stock, plus the value of the bonds, plus the real estate, machinery, instruments, etc., it amounted to double taxation.

On the other hand, the chief merit claimed for the bill was that it reached intangible values. "The merit claimed for the Cheshire plan of taxation", wrote the editor of the *Iowa State Register*, "is that it assures taxation on intangible values. If a company owns a valuable franchise, it cannot be reached for taxation except in some such way. Taxation on gross or net earnings is uncertain, because these may vary widely, even when the company is equally prosperous. But the value of shares, reflected in the market quotations is a sure guide, and hence it is adopted."<sup>474</sup> It was also urged that express companies had evaded practically all taxation for thirty years, and that unless the bill was passed the State would continue to lose a large amount of revenue.<sup>475</sup>

During the course of the debate which followed, four important amendments were introduced, only one of which was adopted. These amendments and the discussion relative

thereto will enable the reader better to understand the bill as introduced and the law itself as finally passed. The original bill, as amended by the sub-committee, provided for reports from express companies to the Executive Council of "real estate, improvements thereon, bonds, mortgages and other property situated outside of the state and used exclusively outside the business with a specific description of the bonds, mortgages and other personal property, the cash value of it, the purposes of its use and where kept, the real estate and where located, its actual value", etc. Senator W. R. Lewis proposed to strike out these words and insert the following: "The true cash value of all its real estate and personal property including money and credits without the state of Iowa and not used in the express business of such express company."<sup>476</sup> The real purpose of this amendment is evident. It was to prevent what was so frequently referred to as the importation of values actually located in other States.

After considerable debate this amendment was defeated by a viva voce vote. Senator Lewis then introduced a second amendment to strike out that portion of the bill requiring the Council to ascertain the valuation of express companies by adding to the market value of the stock, the mortgages and bonds. This was necessary he said in order to avoid double taxation. Senator J. M. Junkin made an effective reply to this argument, and the amendment was voted down without a roll call.<sup>477</sup> In the course of the debate Senator Junkin said that he feared that some "little magician" had caused the Senator from Poweshiek to form a misconception of the bill under consideration. He alleged that even in the written objections filed by the express companies no such double taxation argument appeared.

A third amendment, however, was adopted without opposition. It was offered by Senator W. C. Hayward, who moved to insert "market value" instead of "amount" of



mortgages. The fourth amendment was offered by Senator G. W. Ball and required the assessment of the intangible property of express companies according to the proportion of the actual value to the tangible value. In other words, if a company had a total value of \$10,000,000, three-fifths of which was tangible and the remainder intangible, and \$4,000,000 of the tangible property was located in Illinois and only \$2,000,000 in Iowa, then Senator Ball would contend that only one-half as much of the intangible value would be assessed and taxed in Iowa as is assessed and taxed in Illinois. Senator Cheshire opposed this plan, saying that if it prevailed, "Iowa could only assess and tax the horses and wagons which the express companies own, and their safes."<sup>478</sup> The amendment was lost.

The bill finally passed the Senate with only one vote in opposition, that of Senator Lewis.<sup>479</sup> It was approved and became a law April 7, 1900, essentially as it had been introduced by Senator Cheshire. The law, briefly stated, provides for an elaborate report by the express companies to the Executive Council, valuation according to the "unit rule" by the Council and the distribution of the value thus determined among the various counties on the pro rata mileage basis, redistribution of the same among the local units by the county boards of supervisors, and finally taxation by State, county, and local districts on the same basis as the property of individuals. It has already been pointed out that the chief objection made to the measure was that the "unit rule" was applied in such a manner as to tax property in Iowa which in reality belonged in other States.

Some minor changes in the law were made in 1902;<sup>480</sup> and in 1907 an important amendment was adopted relative to the method of valuation by the Executive Council. In ascertaining the actual value of the property of an express company within the State of Iowa it is provided that the Executive Council shall determine "the actual value of that

part of its property, if any, without the state which cannot lawfully be considered in determining the mileage value of its routes''.<sup>481</sup> Provision is finally made for deducting the value of sea or ocean routes; and in carrying on this work much latitude is given the Executive Council.<sup>482</sup> It thus appears that after a few years of amending through the instructive process of elimination by addition, very little remains of "imported values"—at least one would judge this to be the case from an examination of the assessment of express companies recently set forth by the Executive Council.

In order that the true character of the law relative to the taxation of express companies may be fully understood, a number of statistical tables have been prepared showing the assessed valuation of the four leading express companies as determined by the Executive Council in 1909, and the method of distributing the same among the cities and other taxing district of the State. As already stated the method of tax distribution for express companies is similar to that employed in the case of railroad property. The chief differences lie in the method of valuation, not of tax distribution.

Table IX <sup>483</sup> shows the assessed valuation of the Adams Express Company as fixed by the Executive Council on July 21, 1909, and distributed among the various counties of the State in which the company operates. It appears that the assessed value was fixed at thirty-five dollars per mile. The table shows the number of miles in each county and the assessed valuation thereof, which is in turn redistributed by the county boards of supervisors among the lesser taxing districts of each county. The total assessed value is not a large sum (\$79,403.89) when one considers the great volume of business transacted by the company. The assessed value in specific counties should also be carefully noted. It is as follows in selected counties: in Polk, \$1,094.55; in Wright,

TABLE IX<sup>483</sup>

STATEMENT OF ASSESSMENTS OF EXPRESS PROPERTY AS FIXED BY  
THE EXECUTIVE COUNCIL, JULY 21, 1909, BY COUNTIES

## ADAMS EXPRESS COMPANY

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assess- ed Value
Adair.....	29.822	\$35.00	\$1,043.77
Adams.....	29.832	35.00	1,045.17
Appanoose.....	66.00	35.00	2,310.00
Boone.....	27.48	35.00	961.80
Buena Vista.....	20.12	35.00	704.20
Cass.....	13.652	35.00	477.82
Cerro Gordo.....	24.351	35.00	852.23
Clarke.....	45.42	35.00	1,624.70
Clay.....	26.55	35.00	929.25
Clinton.....	9.12	35.00	319.20
Dallas.....	26.98	35.00	944.30
Davis.....	15.45	35.00	540.75
Decatur.....	96.712	35.00	3,384.92
Des Moines.....	40.046	35.00	1,401.61
Dickinson.....	7.92	35.00	277.20
Dubuque.....	532	35.00	18.62
Emmet.....	18.93	35.00	662.55
Franklin.....	42.931	35.00	1,502.58
Fremont.....	61.623	35.00	2,158.21
Greene.....	23.06	35.00	807.10
Hancock.....	38.796	35.00	1,357.86
Hardin.....	28.769	35.00	1,006.91
Henry.....	75.631	35.00	2,647.09
Humboldt.....	29.75	35.00	1,041.25
Jasper.....	33.202	35.00	1,162.07
Jefferson.....	57.162	35.00	2,000.67
Keokuk.....	39.799	35.00	1,392.96
Kossuth.....	22.351	35.00	782.29
Lee.....	112.576	35.00	3,940.16
Louisa.....	47.245	35.00	1,653.57
Lucas.....	49.645	35.00	1,737.58
Madison.....	12.379	35.00	433.26
Mahaska.....	73.318	35.00	2,566.13
Marion.....	40.007	35.00	1,400.25
Marshall.....	55.59	35.00	2,295.65
Mills.....	73.777	35.00	2,582.19
Monroe.....	63.247	35.00	2,213.65
Montgomery.....	48.427	35.00	1,694.94
Muscatine.....	7.72	35.00	270.20
Page.....	81.0823	35.00	2,858.88
Palo Alto.....	20.49	35.00	717.15
Pocahontas.....	16.74	35.00	585.90
Polk.....	31.273	35.00	1,094.55
Pottawattamie.....	17.58	35.00	615.30



TABLE IX—CONTINUED

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assessed Value
Poweshiek.....	36.591	\$35.00	\$1,280.68
Ringgold.....	55.91	35.00	1,956.85
Scott.....	24.79	35.00	867.65
Story.....	19.50	35.00	682.50
Taylor.....	55.008	35.00	1,925.28
Union.....	43.673	35.00	1,528.56
Van Buren.....	42.05	35.00	1,471.75
Wapello.....	26.723	35.00	935.30
Warren.....	56.492	35.00	1,977.22
Washington.....	38.613	35.00	1,351.46
Wayne.....	36.693	35.00	1,284.25
Webster.....	67.68	35.00	2,368.80
Winnebago.....	20.91	35.00	731.00
Worth.....	13.861	35.00	485.13
Wright.....	15.456	35.00	540.96
Totals.....	2,268.7073	.....	\$79,403.89

\$540.96; in Adair, \$1,043.77; in Boone, \$961.80; and in Lee, \$3,940.16.

The writer has no means of knowing to what extent these figures represent the true value of the Adams Express Company in Iowa. The property of express companies is largely intangible, and therefore more or less elusive. It consists of the right to do business over certain lines of railroad or ocean routes, and under certain conditions. Before the value of such a corporation can be ascertained, where the franchise as such is the vital and paramount consideration, it is necessary to determine the gross income and cost of operation. In this case we refer especially to the gross income and cost of operation on Iowa business as far as such facts can be determined. Something approaching this method was pursued under the law of 1868, save that cost of operation was arbitrarily fixed at sixty per cent of the gross receipts.

It would be interesting to know the true value of the Adams Express Company in Iowa, or, to state the problem

TABLE X<sup>484</sup>

STATEMENT OF ASSESSMENTS OF EXPRESS PROPERTY AS FIXED BY  
THE EXECUTIVE COUNCIL JULY 21, 1909, BY COUNTIES

## AMERICAN EXPRESS COMPANY

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assess- ed Value
Audubon.....	11.39	\$40.00	\$479.60
Benton.....	27.74	40.00	1,109.60
Black Hawk.....	41.44	40.00	1,657.60
Boone.....	67.15	40.00	2,686.00
Bremer.....	19.44	40.00	777.60
Buchanan.....	24.56	40.00	982.40
Buena Vista.....	49.17	40.00	1,966.80
Butler.....	55.52	40.00	2,220.80
Calhoun.....	77.93	40.00	3,117.20
Carroll.....	60.18	40.00	2,407.20
Cedar.....	33.48	40.00	1,339.20
Cerro Gordo.....	44.83	40.00	1,793.20
Cherokee.....	57.21	40.00	2,288.40
Chickasaw.....	7.01	40.00	280.40
Clay.....	5.70	40.00	228.00
Clinton.....	84.447	40.00	3,377.88
Crawford.....	112.98	40.00	4,519.20
Delaware.....	38.53	40.00	1,541.20
Dubuque.....	30.42	40.00	1,216.80
Emmet.....	18.78	40.00	751.20
Floyd.....	19.20	40.00	768.00
Franklin.....	26.23	40.00	1,049.20
Greene.....	25.30	40.00	1,012.00
Grundy.....	31.26	40.00	1,250.40
Hamilton.....	81.442	40.00	3,257.68
Hardin.....	102.19	40.00	4,087.60
Harrison.....	105.27	40.00	4,210.80
Humboldt.....	35.14	40.00	1,405.60
Ida.....	40.38	40.00	1,615.20
Jackson.....	14.60	40.00	584.00
Jasper.....	20.25	40.00	810.00
Johnson.....	18.32	40.00	732.80
Jones.....	22.98	40.00	919.20
Keokuk.....	16.89	40.00	675.60
Kossuth.....	58.26	40.00	2,330.40
Linn.....	66.47	40.00	2,658.80
Lyon.....	41.70	40.00	1,668.00
Mahaska.....	32.81	40.00	1,312.40
Marshall.....	25.99	40.00	1,039.60
Mitchell.....	30.65	40.00	1,226.00
Monona.....	86.17	40.00	3,446.80
Monroe.....	2.40	40.00	96.00
O'Brien.....	59.28	40.00	2,371.20
Osceola.....	17.98	40.00	719.20

TABLE X—CONTINUED

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assessed Value
Palo Alto.....	2.74	40.00	109.60
Plymouth.....	52.31	40.00	2,092.40
Pocahontas.....	33.95	40.00	1,358.00
Polk.....	77.293	40.00	3,091.72
Pottawattamie.....	41.34	40.00	1,653.60
Poweshiek.....	27.21	40.00	1,088.40
Sac.....	88.38	40.00	3,535.20
Scott.....	22.195	40.00	887.80
Shelby.....	18.72	40.00	748.80
Sioux.....	64.23	40.00	2,569.20
Story.....	104.334	40.00	4,173.36
Tama.....	77.92	40.00	3,116.80
Webster.....	111.72	40.00	4,468.80
Winnebago.....	11.43	40.00	457.20
Woodbury.....	100.53	40.00	4,021.20
Worth.....	13.78	40.00	551.20
Wright.....	23.85	40.00	954.00
Totals.....	2,721.601	.....	\$ 108,864.04

in a better form, the value obtained by capitalizing the net income enjoyed by this company on Iowa business. To be sure this is not a simple problem; but the average taxpayer would none the less appreciate the information. It is one of the many problems which should be carefully investigated by a tax commission. This should be done in justice to other corporations which may be paying relatively higher taxes—we say *may* advisedly, because only a thorough and impartial investigation would reveal the facts—and also in justice to the general property of the State.

Table X <sup>484</sup> shows the assessed valuation of the American Express Company which was fixed at forty dollars per mile. The total mileage appears to be 2,721.601, and total assessed valuation \$108,864.04. The mileage and assessed valuation, which it will be observed varies widely in the different counties, may be found for any particular county by referring to the table. For example, Clay County has 5.70 miles of line with an assessed valuation of \$228.00, while Crawford



TABLE XI<sup>485</sup>

STATEMENT OF ASSESSMENTS OF EXPRESS PROPERTY AS FIXED BY  
THE EXECUTIVE COUNCIL, JULY 21, 1909, BY COUNTIES

UNITED STATES EXPRESS COMPANY

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assessed Value
Adair.....	8.52	\$35.00	\$293.20
Allamakee.....	64.55	35.00	2,259.25
Appanoose.....	52.23	35.00	1,828.05
Audubon.....	22.53	35.00	802.55
Benton.....	63.61	35.00	2,226.35
Black Hawk.....	32.73	35.00	1,145.55
Boone.....	23.17	35.00	810.95
Bremer.....	9.87	35.00	345.45
Buchanan.....	25.78	35.00	902.30
Buena Vista.....	26.65	35.00	932.75
Butler.....	21.06	35.00	737.10
Calhoun.....	57.48	35.00	2,011.80
Carroll.....	24.93	35.00	872.55
Cass.....	56.77	35.00	1,986.95
Cedar.....	57.80	35.00	2,023.00
Cerro Gordo.....	43.76	35.00	1,531.60
Chickasaw.....	26.33	35.00	921.55
Clay.....	77.46	35.00	2,711.10
Clayton.....	132.28	35.00	4,629.80
Clinton.....	104.23	35.00	3,648.05
Crawford.....	43.28	35.00	1,514.80
Dallas.....	78.59	35.00	2,750.65
Davis.....	23.75	35.00	831.25
Delaware.....	36.91	35.00	1,291.85
Des Moines.....	21.18	35.00	741.30
Dickinson.....	42.16	35.00	1,475.60
Dubuque.....	60.10	35.00	2,103.50
Emmet.....	36.22	35.00	1,267.70
Fayette.....	97.82	35.00	3,423.70
Floyd.....	45.20	35.00	1,582.00
Franklin.....	12.43	35.00	435.05
Greene.....	27.36	35.00	957.60
Grundy.....	26.24	35.00	918.40
Guthrie.....	70.27	35.00	2,459.45
Hancock.....	50.90	35.00	2,446.50
Hardin.....	17.89	35.00	626.15
Harrison.....	7.01	35.00	245.35
Howard.....	24.38	35.00	853.30
Humboldt.....	24.99	35.00	874.65
Iowa.....	57.93	35.00	2,027.55
Jackson.....	74.97	35.00	2,623.95
Jasper.....	58.92	35.00	2,412.20
Jefferson.....	30.36	35.00	1,062.60
Johnson.....	72.81	35.00	2,548.35

TABLE XI—CONTINUED

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assess- ed Value
Jones.....	77.76	\$35.00	\$2,721.60
Keokuk.....	97.29	35.00	3,405.15
Kossuth.....	64.14	35.00	2,244.90
Lee.....	27.18	35.00	951.30
Linn.....	107.03	35.00	3,746.05
Louisa.....	48.25	35.00	1,688.75
Lyon.....	50.28	35.00	1,759.80
Madison.....	20.64	35.00	722.40
Mahaska.....	52.42	35.00	1,834.70
Marion.....	27.42	35.00	959.70
Marshall.....	25.28	35.00	884.80
Mitchell.....	7.75	35.00	271.25
Monona.....	27.53	35.00	963.55
Monroe.....	10.47	35.00	366.45
Muscatine.....	121.60	35.00	4,256.00
O'Brien.....	37.24	35.00	1,303.40
Osceola.....	39.20	35.00	1,372.00
Palo Alto.....	51.63	35.00	1,807.05
Plymouth.....	15.00	35.00	525.00
Pocahontas.....	40.41	35.00	1,414.35
Polk.....	74.39	35.00	2,603.65
Pottawattamie.....	92.54	35.00	3,238.90
Poweshiek.....	32.39	35.00	1,133.65
Sac.....	19.15	35.00	670.25
Scott.....	124.78	35.00	4,367.30
Shelby.....	44.23	35.00	1,548.05
Sioux.....	45.36	35.00	1,608.60
Story.....	24.79	35.00	867.65
Tama.....	47.37	35.00	1,657.95
Van Buren.....	38.15	35.00	1,335.25
Wapello.....	78.87	35.00	2,760.45
Warren.....	26.23	35.00	918.05
Washington.....	89.69	35.00	3,139.15
Wayne.....	42.71	35.00	1,494.85
Webster.....	7.41	35.00	259.35
Winnebago.....	26.21	35.00	917.35
Winneshiek.....	32.84	35.00	2,899.40
Woodbury.....	37.59	35.00	1,315.65
Worth.....	18.07	35.00	632.45
Wright.....	45.05	35.00	1,576.75
Totals.....	3,949.75	.....	\$138,241.25

County has 112.98 miles with an assessed valuation of \$4,519.20.

Table XI<sup>485</sup> gives similar data for the United States Express Company which was assessed at thirty-five dollars

TABLE XII<sup>486</sup>STATEMENT OF ASSESSMENTS OF EXPRESS PROPERTY AS FIXED BY  
THE EXECUTIVE COUNCIL, JULY 21, 1909, BY COUNTIES

## WELLS FARGO EXPRESS COMPANY

COUNTY	Miles of Road	Assessed Value Per Mile	Total Assessed Value
Black Hawk.....	69.665	\$35.00	\$ 2,438.27
Bremer.....	57.083	35.00	1,997.91
Buchanan.....	14.31	35.00	500.85
Butler.....	27.742	35.00	970.97
Calhoun.....	18.558	35.00	649.53
Carroll.....	35.213	35.00	1,232.45
Cerro Gordo.....	31.506	35.00	1,102.71
Chickasaw.....	25.509	35.00	892.81
Crawford.....	1.872	35.00	65.52
Dallas.....	34.54	35.00	1,208.90
Delaware.....	33.626	35.00	1,176.91
Dubuque.....	31.210	35.00	1,092.35
Fayette.....	35.341	35.00	1,236.94
Franklin.....	24.673	35.00	863.56
Grundy.....	7.970	35.00	278.95
Harrison.....	1.931	35.00	67.58
Howard.....	14.53	35.00	508.55
Jasper.....	30.632	35.00	1,072.12
Lee.....	19.760	35.00	691.60
Madison.....	19.428	35.00	679.98
Marshall.....	31.823	35.00	1,113.81
Mitchell.....	36.208	35.00	1,267.28
Polk.....	55.88	35.00	1,955.10
Pottawattamie.....	30.424	35.00	1,064.84
Ringgold.....	23.836	35.00	834.26
Shelby.....	32.876	35.00	1,150.66
Tama.....	12.658	35.00	443.03
Taylor.....	5.792	35.00	202.72
Union.....	22.487	35.00	787.04
Warren.....	15.72	35.00	550.20
Webster.....	46.433	35.00	1,625.16
Worth.....	16.652	35.00	582.82
Wright.....	45.732	35.00	1,600.62
Totals.....	911.600	.....	\$ 31,906.00

per mile. This company has 3,949.75 miles of line with a total assessed valuation of \$138,241.25.

Table XII<sup>486</sup> represents the assessed valuation of the Wells Fargo Express Company in the various counties where it operates. This is the company which was recently



reported in the papers as declaring a dividend of three hundred per cent. If this is true, it would be interesting to know the amount and rate of their dividend resulting from Iowa business. Perhaps the lines in Iowa have been operated at only a small profit. At least this could be made to appear plausible in a report.

Table XIII<sup>487</sup> gives the assessed valuation of the United States Express Company and the American Express Company as set forth by the board of supervisors of Audubon County and distributed among the lesser taxing districts of the county. It will be observed that Hamlin and Exira townships have more assessed valuation than the remaining seven taxing districts in which the United States Express Company does business. Hamlin has \$220.00 and Exira

TABLE XIII<sup>487</sup>

## ASSESSED VALUE OF EXPRESS COMPANIES

## AUDUBON COUNTY, IOWA

NAME OF COMPANY	ASSESSMENT DISTRICT	No. MILES	PER MILE	TOTAL
UNITED STATES EXPRESS Co.	Leroy Township .....	1.07	\$35.00	\$ 27.00
	Audubon Independent....	.57		20.00
	Audubon Town .....	.83		29.00
	Hamlin Township .....	6.28		220.00
	Exira Township .....	3.33		117.00
	Exira Independent.....	.63		22.00
	Exira Town .....	.674		24.00
	Oakfield Township .....	2.546		89.00
	Brayton Town .....	.30		11.00
Total .....		16.23		\$569.00
AMERICAN EXPRESS Co.	Cameron Township .....	4.68	\$40.00	\$187.00
	Gray Independent.....	1.72		69.00
	Gray Town .....	1.17		47.00
	Leroy Township .....	3.22		129.00
	Audubon Independent....	.67		27.00
	Audubon Town .....	.53		21.90
Total .....		11.99		\$480.00

\$117.00 out of a total assessed valuation of \$569.00. On the other hand, Brayton town has an assessed value of only \$11; Exira town, \$24; and Audubon town, \$29. The same condition prevails in the townships where the American Express Company operates. Cameron and Leroy townships have about three-fourths of the assessed valuation, while Audubon and Gray townships have almost nothing. Further comment would be superfluous. The reader is referred to the chapter entitled "Railway Tax Distribution" in Volume II of this work.<sup>488</sup> The facts set forth in that chapter apply with equal force to express companies.

TABLE XIV <sup>489</sup>

ASSESSED VALUE OF EXPRESS COMPANIES IN FIFTY LEADING CITIES  
OF IOWA

*Municipal Accounts Report, Iowa, 1907, p. 43.*

CITY NUMBER	CITY	ASSESSED VALUATION
1.....	Des Moines .....	\$2,330
2.....	Dubuque .....	1,640
3.....	Sioux City .....	1,043
4.....	Davenport .....	2,980
5.....	Cedar Rapids .....	2,664
6.....	Burlington .....	346
7.....	Council Bluffs .....	1,088
8.....	Clinton .....	625
9.....	Ottumwa .....	405
10.....	Muscatine .....	445
11.....	Keokuk .....	
12.....	Fort Dodge .....	300
13.....	Marshalltown .....	402
14.....	Oskaloosa .....	39
15.....	Boone .....	315
16.....	Fort Madison .....	377
17.....	Iowa City .....	169
18.....	Creston .....	190
19.....	Mason City .....	459
20.....	Centerville .....	193
21.....	Oelwein .....	
22.....	Cedar Falls .....	
23.....	Atlantic .....	115

TABLE XIV—CONTINUED

CITY NUMBER	CITY	ASSESSED VALUATION
24.....	LeMars .....	145
25.....	Fairfield .....	94
26.....	Red Oak .....	163
27.....	Webster City .....	461
28.....	Grinnell .....	120
29.....	Charles City .....	269
30.....	Washington .....	171
31.....	Newton .....	32
32.....	Shenandoah .....	91
33.....	Perry .....	21
34.....	Clarinda .....	122
35.....	Cherokee .....	148
36.....	Albia .....	193
37.....	Decorah .....	70
38.....	Independence .....	57
39.....	Maquoketa .....	
40.....	Estherville .....	213
41.....	Mount Pleasant .....	108
42.....	Vinton .....	95
43.....	Indianola .....	78
44.....	Waverly .....	226
45.....	Missouri Valley .....	
46.....	Belle Plaine .....	156
47.....	Ames .....	195
48.....	Carroll .....	121
49.....	Knoxville .....	142
50.....	Denison .....	66

Finally, the data given in Table XIV <sup>489</sup> will be especially instructive to the student of taxation. Without the facts therein presented it would be difficult to form a clear idea of how the present law operates in Iowa. This data was obtained from the *Municipal Accounts Report*, 1907, issued by the Auditor of State. The table gives the assessed valuation of all the express companies doing business in the leading Iowa cities, save that returns were not made for five of the cities. Comment on this table is unnecessary. The reader will draw his own conclusions. It is obvious that the express companies pay almost nothing toward the



support of our city governments. For example, the assessed valuation of express companies in Des Moines is only \$2,330; in Council Bluffs, \$1,088; in Ottumwa, \$405; in Fort Dodge, \$300; in Iowa City, \$169; and in Ames, \$195. In other words, the express companies pay less taxes in the average city of Iowa than the owner of a modest home, which may be encumbered with a heavy mortgage.

The history of the taxation of express companies in Iowa may be divided into six distinct periods. Up to 1868 these corporations were included in the general property tax. From 1868 to 1870 they were taxed on their personal property which was arbitrarily fixed at forty per cent of their gross receipts. During the long period from 1870 to 1896 general property taxation was again the law. In 1896 a law was passed, largely through the efforts of Senator Funk, imposing a tax of one dollar on every hundred dollars of gross receipts. The rate was doubled in 1898. But in 1900 the whole system was again changed. Following a decision of the Supreme Court adverse to the principle of exclusive State taxation for certain corporations, Senator Cheshire secured the passage of a bill providing for the assessment of express companies according to a rigid and complicated plan which it is feared, has failed to reach intangible values. The assessed valuation thus obtained is distributed on a mileage basis among the counties and by the county boards through the lesser taxing districts. From the standpoint of tax distribution one meets the same objections as in the case of railroads. Since the present law was originally passed in 1900 it has been amended so as to prevent any possible "importation of values"—a fact which is clearly revealed by the tables herein presented.

## IX

### THE TAXATION OF TELEGRAPH AND TELEPHONE COMPANIES

The early history of the taxation of telegraph companies in Iowa has already been discussed in connection with the taxation of express companies.<sup>490</sup> Under the *Code of 1851* and the *Revision of 1860* the same provisions applied to each class of corporations. As late as 1868 the General Assembly passed "An Act in relation to Revenue and Taxing the Property of Express Companies and Telegraph Companies".<sup>491</sup> This act fixed the valuation of the personal property of such companies at forty per cent of their gross receipts, and further provided that the valuation thus determined should be taxed at the same rate as the personal property of individuals.

Attention has already been called to the fact that the law relative to the taxation of express companies, passed in 1870, was not changed until 1896.<sup>492</sup> This delay, however, was not experienced in the case of telegraph companies. Upon examination it soon became evident that these corporations were practically exempt from taxation. Telegraph lines, being for the most part erected on the right of way of railways, were generally considered by assessors to be railroad property, and it was supposed that they were taxed accordingly. The Auditor in his report of 1877 says that "the law requiring the assessment of telegraph lines is rarely enforced, and a tax-book whereon appears such an assessment would be a curiosity indeed, and this not because of any intention to evade the law, nor except such property, but through misapprehension".<sup>493</sup>

It was recommended in this same report that telegraph companies be separately assessed by the Executive Council, that the rate be so increased as to compensate for the average local levies, and finally, that the tax collected therefrom be paid directly into the State treasury. Accordingly, a law was promptly passed embodying these recommendations.<sup>494</sup> The act as approved requires reports from the companies setting forth the total number of units of telegraph lines, number of wires, stations, instruments, poles, and the like, but no statement is required of the gross or net earnings. From the data thus secured it is made the duty of the Executive Council to assess the telegraph lines at their true cash value.

The most interesting provision of the act, however, is that fixing the rate of taxation, which reads: "The said state board shall also, at said meeting, determine the rate of tax to be levied and collected upon said assessment, which shall not exceed the average rate of taxes, general, municipal and local, levied throughout the state during the previous year, which rate shall be ascertained from the records and files in the auditor's office, which tax shall be in lieu of all other taxes, state and local, and shall be payable into the state treasury."<sup>495</sup> It is finally provided that any telegraph line, owned and operated by any railroad exclusively for the transaction of its own business, and taxed as a part of the property of said railroad, shall be exempted from the provisions of this act.

The Auditor of State two years later refers to the satisfactory operation of this law. He says that a tax of three per cent had been levied upon the valuation as fixed by the Executive Council, which tax had been promptly paid into the State treasury. He then recommended a similar law for the taxation of railroad companies,<sup>496</sup> which recommendation was repeated in the report of 1881.<sup>497</sup>

Up to this time no law had been passed providing directly



for the taxation of telephone companies. This question, however, was settled by the Supreme Court in *The Iowa Union Telephone Co. vs. The Board of Equalization of The City of Oskaloosa*.<sup>498</sup> In this important case, which came up for adjudication in 1885, it was held that the law providing for the taxation of telegraph companies<sup>499</sup> should also include telephone companies, which meant that the property of such companies should be assessed and taxed by the Executive Council and not by the city board of equalization.<sup>500</sup>

The law thus enacted, and so interpreted by the court, was revised and amended in the *Code of 1897*. Here a more complete report is required of the companies, which is made to include gross receipts and operating expenses, the total capital stock together with the par and market value of the shares, mortgages upon the whole or any part of the property, and numerous other items.<sup>501</sup>

In making the assessment it is further provided that the Executive Council shall take into consideration the valuation of all the property of such companies including franchises and the use of property outside of the State, "making such deductions as may be necessary on account of extra value of property outside the state as compared with the value of property in the state, in order that the actual cash value of the property of the company within this state may be ascertained".<sup>502</sup> It is also stipulated that from the actual cash value of the property of such companies thus determined there shall be deducted the actual cash value of their property assessed for taxation in local taxing districts. Finally, it is provided that the rate of tax levied shall be equal "as nearly as may be, to the average rate of taxes, state, county, municipal and local, levied throughout the state during the previous year", and that the same shall be paid directly into the State treasury.<sup>503</sup> It will be noted that the method of assessment thus outlined is not rigid or

arbitrary, and in addition every precaution is taken to prevent the assessment of property belonging in other States.

This whole system of taxation for telegraph and telephone companies was completely changed in 1900. Following the decision of the Supreme Court in *Hawkeye Insurance Co. vs. French*<sup>504</sup> it seemed necessary to devise a scheme of taxation whereby certain public service corporations would be required to contribute not only to the State but also to the local units of government on the same basis as individuals. Accordingly, Senator Cheshire, who had been largely instrumental in defeating the State plan of taxation, introduced three separate bills for taxing telephone, telegraph and express companies on the same basis as the property of individuals. The passage of the Cheshire bill for the taxation of express companies<sup>505</sup> has already been discussed. Many of the facts relative thereto apply also to telephone and telegraph companies and therefore need not be repeated. It will be recalled that the Cheshire bill for the taxation of express companies as amended by the committee passed both houses with but little opposition. The small effort that was made to defeat it came through the influence of the telephone and telegraph companies who felt that their own interests were being endangered. The nature of the opposition has also been explained. This opposition was destined for a third time to defeat the bills for the taxation of telephone and telegraph companies. As these bills were the same in principle we will confine our attention to a brief consideration of the one for the taxation of telephone companies.

The bill requires, first, a complete and detailed report from the companies to the Executive Council of their total amount of capital stock giving par, actual, market, or face value of shares as demanded by the Council, total length of their lines, also their length within the State and within counties, towns, and local assessment districts, amount of



mortgaged indebtedness, and the like; second, assessment by the Executive Council on the plan of the unit rule; and third, taxation by State, county, and local units on the same basis and in the same manner as the property of individuals.

The point to be specially noted is the manner of assessment. There are four distinct steps in the process. First, the total value of the property of a telephone company is determined by adding the market value, or the aggregate shares of stock, or the value of the capital,<sup>506</sup> to the total aggregate amount of mortgaged indebtedness. In the second place, there is to be deducted from said amount the value of the real estate situated without the State and not specifically used in the general business of the company. Third, the actual value of the property within the State is then ascertained by taking that proportion of the amount above determined "which the length of the routes within the state of Iowa, bears to the whole length of the routes of such company". Finally, from the actual value of the property within the state is deducted the real estate, structures, machinery and appliances, subject to local taxation, and the remainder is distributed on a mileage basis among the counties and local assessment districts to be taxed in the same manner as the property of individuals.<sup>507</sup> In other words, the method of assessment and distribution proposed is exactly the same as that outlined in the Cheshire bill for the taxation of express companies.

It will be recalled that two important objections were made to the bill providing for the taxation of express companies.<sup>508</sup> In the first place it was alleged that the hard and fast method of valuation on the basis of capital stock plus mortgaged indebtedness was unjust and discriminating as compared with the assessment of certain other corporations, for example, railroad companies. In the second place, the opponents of the measure contended that the unit rule was so applied as to include in the assessment



property situated and taxed in other States. The same objections together with numerous other criticisms were urged against the Cheshire bills for the taxation of telephone and telegraph companies.

The representatives of these corporations understood that in view of the late decision of the Supreme Court a complete change of the law would be made, and accordingly they favored the introduction of a substitute bill which would eliminate the objectionable features of the Cheshire plan. In the *Iowa State Register* one reads that "it is understood that Senator L. C. Blanchard, of Mahaska county, will introduce a bill this morning repealing those sections of the law relating to the assessment and taxation of telephone and telegraph lines which are unconstitutional, and enacting a substitute therefor, placing the assessment and taxation of the property of these concerns on the same basis as the assessment and taxation of railroad property. The defect in the present law is the collection of taxes directly by the state; this may be remedied by the executive council assessing and taxing the corporations and certifying the tax for local collection in the different counties."<sup>509</sup>

The substitute bill referred to was introduced by Senator Blanchard and ably supported by the independent telephone companies. Mr. H. C. Raney, a representative of these companies, said: "We cannot get independent companies outside the state to build in, if their outside lines and exchanges are to be taxed again in this state."<sup>510</sup> It was claimed that the proposed Cheshire bill would seriously jeopardize the interests of the leading independent companies — especially the Mississippi Valley Telephone Company with its large exchanges at Minneapolis and St. Paul, and the Missouri and Iowa Telephone Company with its large exchanges at St. Joe and Kansas City. The telephone representatives finally argued that the bill was indefinite and, if passed, would subject them to special legislation

more burdensome and different from that applied to other corporations of like character.

The Ways and Means Committee of the Senate held a number of meetings to hear arguments for and against the Cheshire bills.<sup>511</sup> The argument advanced with most force was that Senator Cheshire proposed to apply the unit rule so as to tax property in Iowa which was located and taxed in adjoining States.<sup>512</sup> This idea of "imported valuations" was vigorously assailed by all those who appeared and spoke against the Cheshire bills. At a meeting of the Iowa Independent Telephone Association a set of resolutions was adopted condemning this plan and asking that the Blanchard bill be passed for the following reasons:

First — Because by its fundamental principle, the unit idea of taxation, or the theory of imported values, will work a great hardship upon the independent lines, in that it will prevent them from building lines outside the state, and especially will prevent them from being able to get outside lines to build into the state, thereby giving them the long distance connections which they must have in order to successfully compete with the old company. If outside companies, especially those owning large exchanges, understand that building toll lines into Iowa means that they will be taxed again in Iowa on part of their investment in another state, already taxed in that state, they will refuse to build into Iowa. The result will be that the independent Iowa companies will be unable to get outside long distance connections.

Second — Because said independent telephone companies are composed of Iowa people, investing Iowa capital for the benefit of Iowa people, and since their organization they have reduced the price of telephone service from 33 1-3 to 50 per cent., and they are furnishing telephone service to the smaller towns and to farmers, who are entitled to first class service.

Third — Because it singles out the independent telephone companies of Iowa, composed of home people, who have invested home capital in the telephone business, and applies to them a harsh and unreasonable rule of taxation that is not applied to other corpora-



tions of like character. No attempt is made to apply this rule to the railroad companies, and other large corporations.

Fourth — Because the assessments on telephone companies, made under the present law, are conceded on all hands to be entirely fair and satisfactory, and all that is needed is a short amendment to the present law which will cover the objections made to it by the decision of the Supreme Court, and such an amendment would give us a law taxing them on the same plan and principle as other corporations of like character.

Fifth — And we most respectfully ask you to support S. F. 265, known as the Blanchard bill, for the reason that we believe the same to be fair, both to the public and to the home telephone companies, and it applies to the home companies the same rule of taxation that is applied to other corporations of like character. It will also put the home companies in a position, with outside independent telephone companies, where they will be able to get outside long distance connections, and thereby enable them to furnish a first class service to their patrons, not only in the larger cities and towns, but also in the smaller towns, and to their farmer patrons.<sup>513</sup>

The contest lasted for more than a month. Senators Cheshire and Junkin ably defended their particular plan of taxation. The discussion was always animated and at times bitter. Senator Cheshire once referred to Senator Blanchard, the author of the bill for taxing both telephone and telegraph companies, as a "cat's paw" of the Western Union Telegraph Company.<sup>514</sup> Senator Junkin spoke of the General Assembly as "now wrestling with a Hercules", and referred to the facility with which the Western Union Telegraph Company could speak "simultaneously from Chicago through 1,133 Iowa stations."<sup>515</sup> He said that he was always willing to consider a petition emanating voluntarily from the people but not one dictated by special interests.

Senator James Trewin opposed the Cheshire scheme of taxation. Reviewing the history of these bills he said that the vital principle they involved was the taxation of intangible value which had already been incorporated into



section 1330 of the *Code of 1897*.<sup>516</sup> The real principle of the bills having been transplanted into the law, nothing remained, according to Senator Trewin, but the idea of taxing foreign values which caused the defeat of the plan in 1898 and was the chief cause of opposition to the pending bills.<sup>517</sup> Senators Cheshire and Healy denied that the proposed plan of taxation would result in the importation of foreign values.

The Blanchard amendment to adopt the railroad plan of assessing telephone and telegraph companies was finally brought to a test vote on motion of Senator Titus and was adopted — ayes twenty-six and nays twenty-two. The bill was then read a third time and passed almost without opposition.<sup>518</sup> This amendment as finally enacted into law represents a change from the *Code of 1897*, largely from the standpoint of tax distribution. The reports required of the companies are essentially the same. The method of assessment is also practically the same. In making the assessment the Executive Council is still required to grant “such deductions as may be necessary on account of extra value of property outside the state as compared with the value of property in the state”;<sup>519</sup> but aside from this the Council is held to no hard and fast rule of valuation. It is given much the same latitude as in making an assessment of railroad property.<sup>520</sup>

From the standpoint of tax distribution, however, the new law is a radical and complete change. The rate of tax is no longer equal “as nearly as may be, to the average rate of taxes, state, county, municipal and local, levied throughout the state”;<sup>521</sup> nor is the tax itself paid directly into the State treasury. The new act provides for an assessment on the unit plan and a distribution of the value thus determined among the counties and local districts on a mileage basis. It is then stipulated that “all telegraph and telephone property shall be taxable upon said assessment at the

same rates, by the same officers, and for the same purposes as the property of individuals within such counties, cities, towns, townships, or lesser taxing districts, and the county treasurer shall collect such taxes at the same time and in the same manner as other taxes, and the same penalties for the nonpayment shall be due and collectable as for the nonpayment of individual taxes.”<sup>522</sup> This act, with minor amendments made in 1904,<sup>523</sup> is in force at the present time.

Before concluding this chapter attention will be directed to two important decisions of the Supreme Court. In *Layman, County Treasurer of Polk County, vs. The Iowa Telephone Company*, the Supreme Court followed their former opinion given in *Hawkeye Insurance Co. vs. French*,<sup>524</sup> so far as the same relates to the separation of revenue sources and the right of certain corporations to be exempt from local taxation. The language of the court, however, is more explicit. Speaking for the court Chief Justice Deemer said:

“The issue between those who believe in the segregation of sources of tax income, and those who believe in a strong, centralized system, while not, perhaps, appreciated by those who have given the matter little thought, is sharply drawn; and the Legislature has veered from one side to the other, according to the views of its constituent members, until the matter was finally set at rest for this state in *Hawkeye Ins. Co. v. French*, 109 Iowa, 585. That case announced no new doctrine, however, for prior thereto the whole matter had been gone over and decisions of like import had been made, in *Davenport v. C., R. I. & P. R. R. Co.*, 38 Iowa, 633, and *Dunlieth & Dubuque Bridge Co., v. Dubuque*, 32 Iowa, 427. These decisions had evidently been overlooked, however, by many subsequent Legislatures, and the matter was not pressed for hearing until a case arose which seemed to deprive a municipality of considerable of its local revenues. In the *French Case*, as in the ones preceding it, the principle of segregation is distinctly affirmed; and, in view of Article



8, Section 2, of the Constitution, it was squarely held that corporations should be subject to taxation the same as individuals — that is to say the objects and purposes must be the same, whether the property be that of individuals or corporations. Such result is not obtained when the corporation is taxed for state purposes only, while the individual is taxed not only for state, but also for local, purposes. Following these cases, we must hold that that part of the law exempting telephone companies from local taxation is invalid, unless it be for a reason suggested by appellee's counsel, to which we shall presently refer.

“If these statutes, in so far as they relieve telephone companies from the payment of local taxes, are unconstitutional, it follows, we think, that the entire scheme is invalid, for it is manifest that this provision was one of the inducements for the passage of the act, and that there can be no taxation thereunder for any purpose — state or local. This is not a case where part of the statute may be held invalid, and another part good. The two provisions are so closely associated and allied — so materially dependent — that one cannot be severed from the other without destroying the entire scheme.”<sup>525</sup>

It thus appears that the same legal principles are here involved as in *Hawkeye Insurance Co. vs. French*. An analysis of these principles and their application to the property of certain corporations having already been made, little additional comment is necessary. The student of taxation should observe, however, that the court objected to that degree of segregation which would seem to deprive “a municipality of considerable of its local revenues,” on the ground that such a policy was not in harmony with Article 8, Section 2, of the Constitution, requiring the taxation of all corporations organized for pecuniary profit on the same basis as the property of individuals. This fact is especially important in connection with scientific tax reform



and general conclusions relative thereto formed as a result of an historical study of the Iowa revenue system.

There can be but little doubt that many theorists, and practical financiers as well, have pushed the idea of segregation altogether too far. While that measure of segregation based on the exclusive State taxation of non-local values or non-local business, is just, practicable, and therefore desirable; it is equally true that a complete or even partial separation of revenue sources rendered possible by the exclusive State taxation of strictly local values is contrary to every canon of equal and uniform taxation. The fact that this objection could be legitimately raised against the plan of taxing telephone and telegraph companies above outlined forms a sound economic basis for the opinion of the court in *Layman vs. The Iowa Telephone Company*. This conclusion, however, by no means involves the assumption that a different law drafted so as to make a careful distinction between local and non-local values for purposes of taxation would necessarily be declared unconstitutional. On the contrary, a careful study of *Hawkeye Insurance Company vs. French* and *Layman vs. The Iowa Telephone Company* would seem to furnish ample proof that a law thus framed would meet the requirements of Article 8, Section 2, of the Constitution as interpreted by the court. There is little or no reason to believe that scientific tax reform requires an amendment to the Constitution.

In *Chicago B. & Q. R. R. Co. vs. Rhein* <sup>526</sup> the question came up concerning the taxation of a telegraph line owned by a railroad, but not used exclusively in the operation of its road. It will be recalled that a telegraph line owned by a railroad and exclusively operated for the transaction of its own business is to be assessed and taxed as an integral part of such railroad.<sup>527</sup> Otherwise a telegraph line is assessed and taxed as a separate corporation and under a different section of the Code.<sup>528</sup> The court held, first, that

a tax paid by a railroad company for a telegraph line owned but not exclusively operated in the transaction of its business could not recovered; and second, that the payment of such a tax did not exempt a telegraph line from the payment of an additional tax as a separate corporation.<sup>529</sup>

The following tables will enable the reader to better understand the present law providing for the taxation of telephone and telegraph companies. Detailed comments are unnecessary as the same principles are involved which have already been noted in a previous chapter and which will be more thoroughly analyzed in the chapters on railway taxation. The chief criticism is that of grossly unjust tax distribution. Values are created in one district and taxed in another without regard to any principle either of justice or expediency.

Tables XV,<sup>530</sup> XVI<sup>531</sup> and XVII<sup>532</sup> show the assessed valuation of the Postal Telegraph-Cable Company, Western Union Telegraph Company, and American Telephone and Telegraph Company as fixed by the Executive Council on July 26, 1909. The data is similar to that given in Tables IX to XII inclusive. It appears that the Postal Telegraph-Cable Company was assessed at sixty-five dollars per mile, save where it makes use of the poles of another company. The company operates in forty-four counties, has 1,232.45 miles of line, and a total assessed valuation of \$69,581.85. The Western Union Telegraph Company operates in all the counties of Iowa, is assessed at eighty dollars per mile, and has a total assessed valuation of \$704,339.20. The distribution of the assessment among the various counties should be carefully noted from the table. Finally, the American Telephone and Telegraph Company is rated for purposes of taxation at eighty dollars per mile and has a total assessed valuation of \$70,960.80.

In Table XVIII<sup>533</sup> there is a statement showing the actual value of various forms of property in the several tax-

TABLE XV<sup>530</sup>STATEMENT OF THE ASSESSMENT OF TELEGRAPH PROPERTY AS  
FIXED BY THE EXECUTIVE COUNCIL, JULY 26, 1909

NAMES OF COMPANIES AND COUNTIES	Mileage	Assessment Per Mile	Total Assessment
Postal Telegraph-Cable Co.—203			
C. F. Fox, W. W. Morrison, Des Moines.			
Adair.....	25.56	\$65.00	\$1,661.40
Bremer.....	31.75		2,063.75
Butler.....	27.81		1,807.65
Black Hawk.....	37.06		2,408.90
Buchanan.....	14.31		930.15
Cass.....	28.65		1,862.25
Cedar.....	6.94		451.10
Chickasaw.....	25.67		1,668.55
Clinton.....	16.42		1,057.30
Delaware.....	25.62		1,665.30
Des Moines.....	27.00		1,755.00
Dubuque.....	31.21		2,028.65
Fayette.....	33.50		2,177.50
Franklin.....	9.62		625.20
Grundy.....	7.95		516.75
Howard.....	13.15		854.75
Harrison.....	30.56		1,986.40
Iowa.....	25.25		1,641.25
Jasper.....	56.88		3,697.20
Johnson.....	38.95		2,531.75
Linn.....	9.75		633.75
Louisa.....	22.95		1,491.75
Lee (on poles of Iowa Tel. Co.).....	90.00	20.00	1,800.00
Lyon (on poles of Iowa Tel. Co.).....	3.00	20.00	60.00
Madison.....	45.85	65.00	2,980.25
Marshall.....	31.60		2,054.00
Mitchell.....	15.31		995.15
Mahaska (on poles of Iowa Tel. Co.).....	55.00	20.00	1,100.00
Monona.....	26.48	65.00	1,721.20
Muscatine.....	44.12		2,867.80
Plymouth (on poles of N. T. E. Co.).....	15.00	20.00	300.00
Polk.....	29.00	65.00	1,885.00
Poweshiek.....	25.03		1,626.95
Poweshiek.....	16.75	20.00	335.00
Pottawattamie.....	74.56	65.00	4,846.40
Ringgold.....	23.91		1,554.15
Scott.....	37.46		2,434.90
Sioux (on poles of N. T. E. Co.).....	14.34	20.00	286.80
Tama.....	12.64	65.00	821.60
Taylor.....	5.78		375.70
Union.....	22.56		1,466.40
Wapello (on poles of Iowa Tel. Co.).....	34.00	20.00	680.00
Warren.....	18.79	65.00	1,221.35
Woodbury.....	24.69	65.00	1,604.85
Woodbury (on poles of N. T. E. Co.).....	5.63	20.00	112.60
Worth.....	14.39	65.00	935.35
Total.....	1,232.45		\$60,581.85



TABLE XVI<sup>531</sup>STATEMENT OF THE ASSESSMENT OF TELEGRAPH PROPERTY AS  
FIXED BY THE EXECUTIVE COUNCIL, JULY 26, 1909

NAMES OF COMPANIES AND COUNTIES	Mileage	Assessment Per Mile	Total Assessment
Western Union Telegraph Co.—4200			
Robt. C. Clowry; A. R. Brewer, New York City.			
Adair.....	38.34	\$ 80.00	\$3,067.20
Adams.....	29.86		2,388.80
Allamakee.....	64.55		5,164.00
Appanoose.....	145.25		11,620.00
Audubon.....	28.21		2,256.80
Benton.....	21.43		7,314.40
Black Hawk.....	73.11		5,848.80
Boone.....	63.03		5,042.40
Bremer.....	30.32		2,425.60
Buchanan.....	50.31		4,024.80
Buena Vista.....	95.88		7,670.40
Butler.....	76.71		6,136.80
Calhoun.....	95.22		7,617.60
Carroll.....	85.13		6,810.40
Cass.....	63.44		5,075.20
Cedar.....	82.78		6,622.40
Cerro Gordo.....	138.82		11,105.60
Cherokee.....	55.87		4,469.60
Chickasaw.....	33.38		2,670.40
Clarke.....	46.42		3,713.60
Clay.....	109.87		8,789.60
Clayton.....	133.53		10,682.40
Clinton.....	165.44		13,235.20
Crawford.....	156.26		12,500.80
Dallas.....	63.26		5,540.80
Davis.....	65.83		5,266.40
Decatur.....	96.71		7,736.80
Delaware.....	75.45		6,036.00
Des Moines.....	61.97		4,957.60
Dickinson.....	50.04		4,003.20
Dubuque.....	91.03		7,282.40
Emmet.....	73.83		5,906.40
Fayette.....	97.84		7,827.20
Fremont.....	70.40		5,632.00
Floyd.....	65.24		5,219.20
Franklin.....	56.81		4,544.80
Greene.....	47.18		3,774.40
Grundy.....	57.77		4,621.60
Guthrie.....	53.27		4,261.60
Hamilton.....	76.43		6,118.40
Hancock.....	107.70		8,616.00
Hardin.....	148.98		11,218.40
Harrison.....	112.28		8,982.40
Henry.....	75.64		6,051.20
Howard.....	24.38		1,950.00
Humboldt.....	90.66		7,252.84
Ida.....	40.38		3,230.40
Iowa.....	57.93		4,634.40
Jackson.....	88.68		7,094.40

TABLE XVI—CONTINUED

Names of Companies and Counties	Mileage	Assessment Per Mile	Total Assessment
<b>Western Union Telegraph Co.—Continued.</b>			
Jasper.....	101.99	80.00	8,159.20
Jefferson.....	87.52		7,001.60
Johnson.....	72.26		5,780.80
Jones.....	96.00		7,680.00
Keokuk.....	153.96		12,316.80
Kossuth.....	146.19		11,695.20
Lee.....	160.08		12,806.40
Linn.....	152.30		12,184.00
Louisa.....	73.34		5,867.20
Lucas.....	49.64		3,971.20
Lyon.....	110.35		8,828.00
Madison.....	33.02		2,641.60
Mahaska.....	158.10		12,648.00
Marion.....	106.15		8,492.00
Marshall.....	116.85		9,348.00
Mills.....	90.92		7,273.60
Mitchell.....	38.40		3,072.00
Monona.....	113.66		9,092.80
Monroe.....	101.76		8,140.80
Montgomery.....	48.42		3,873.60
Muscatine.....	109.57		8,765.60
O'Brien.....	97.82		7,801.60
Osceola.....	57.13		4,570.40
Page.....	101.51		8,120.80
Palo Alto.....	75.31		6,024.80
Plymouth.....	93.01		7,440.80
Pocahontas.....	91.04		7,283.20
Polk.....	137.53		11,002.40
Pottawattamie.....	160.74		12,859.20
Poweshiek.....	96.03		7,687.20
Ringgold.....	79.84		6,387.20
Sac.....	107.53		8,602.40
Scott.....	100.99		8,079.20
Shelby.....	60.68		4,854.40
Sioux.....	137.48		10,998.40
Story.....	122.86		9,828.80
Tama.....	122.26		9,780.80
Taylor.....	55.00		4,400.00
Union.....	43.67		3,493.60
Van Buren.....	80.05		6,404.00
Wapello.....	116.42		9,233.60
Warren.....	82.72		6,617.60
Wayne.....	79.40		6,352.00
Webster.....	165.75		13,260.00
Winnebago.....	59.05		4,724.00
Winnesiek.....	83.35		6,668.00
Woodbury.....	175.21		14,016.80
Worth.....	45.98		3,678.40
Wright.....	117.84		9,427.20
Washington.....	129.90		10,392.00
Total.....	8,804.24	\$80.00	\$704,339.20

TABLE XVII<sup>532</sup>STATEMENT OF THE ASSESSMENT OF TELEGRAPH PROPERTY AS  
FIXED BY THE EXECUTIVE COUNCIL, JULY 26, 1909

NAMES OF COMPANIES AND COUNTIES	Mileage	Assessment Per Mile	Total Assessment
<b>American Telephone and Telegraph Co.</b>			
C. R. Bangs, M. Egleston, New York City.			
Adair.....	13.57	\$80.00	\$1,085.60
Benton.....	27.48		2,198.40
Bremer.....	11.33		906.40
Butler.....	23.62		1,889.60
Black Hawk.....	53.19		4,255.20
Cass.....	23.61		1,888.80
Cedar.....	41.65		3,332.00
Cerro Gordo.....	20.07		1,605.60
Dallas.....	1.58		126.40
Des Moines.....	31.70		2,536.00
Floyd.....	23.74		1,899.20
Fremont.....	23.38		1,870.40
Grundy.....	10.11		808.80
Guthrie.....	11.12		889.60
Iowa.....	28.38		2,270.40
Jasper.....	57.72		4,617.60
Johnson.....	29.10		2,328.00
Jones.....	1.24		99.20
Lee.....	51.62		4,129.60
Louisa.....	20.11		1,608.80
Linn.....	32.31		2,584.80
Marshall.....	37.86		3,028.80
Madison.....	22.29		1,783.20
Mills.....	22.17		1,773.60
Muscatine.....	62.14		4,971.20
Polk.....	43.39		3,499.20
Pottawattamie.....	54.32		4,345.60
Poweshiek.....	29.41		2,352.80
Scott.....	38.59		3,087.20
Tama.....	14.12		1,129.60
Warren.....	.52		41.60
Worth.....	18.97		1,517.60
Total.....	587.01	\$80.00	\$70,960.80

ing districts of Chickasaw County for the year 1908. Attention is especially called to the striking regularity of variation in the column giving the actual value of railroad, telegraph, and express companies, respectively. New Hampton township, which has the largest railway valuation, \$401,352, also has the largest valuation for telegraph and express companies; Washington township ranks second,



TABLE XVIII<sup>533</sup>

## VALUATIONS OF CHICKASAW COUNTY, IOWA, FOR 1908

TOWNSHIPS	Actual Value Lands and Lots	Value of Per- sonal Prop- erty	Value of Rail- roads	Value of Telegraph	Value of Telephone	Value of Express Co's	Total of All Property	
							Actual Value	Tax- able Value
Utica.....	\$1247730	\$121668	\$57768	\$130	\$995	\$70	\$1428702	\$337075
Jacksonville.....	1148423	134305			1220		1283948	320987
Washington.....	1228529	145524	342904	628	2091	380	1720062	430016
Deerfield.....	1278980	162184			1000		1442164	360541
Chickasaw.....	775164	117088	180082	442	1663	237	1090686	270172
Dayton.....	843640	62356	217752	480	1616	200	1126104	281526
New Hampton.....	875673	110016	401352	821	1329	467	1389658	347404
Stapleton.....	892082	100508	114208	257	1330	138	1108583	277145
Fredericksburg.....	853511	97444	137232	251	1221	155	1089814	272454
Dresden.....	769130	107792	110984	203	817	125	989051	247238
Richland.....	842956	96914			897		940767	235191
Bradford.....	779761	99976	56408	334	1730	198	938407	234602
Nashua City.....	525330	400804	26432	156	377	94	953193	238266
Fredericksburg City.....	116784	149720	23404	44	110	26	281244	70311
Lawler City.....	169236	98664	45484	102	180	55	280953	70238
New Hampton City.....	837352	476036	81348	164	673	92	1366157	341539
Ionia Corp.....	92688	51604	28220	64	122	34	169152	39788
Bassett Corp.....	37664	17125	17596	40	52	21	61354	15338
North Washington Corp.....	26612	13232			68		40112	10038
Alta Vista Corp.....	94798	80320	19532	36	83	22	180617	45154
Totals.....	\$13325625	\$2643940	\$1866716	\$4152	\$17515	\$2380	17860328	\$4405082

Dayton third, and Chickasaw fourth, for all three classes of property. On the other hand, Jacksonville, Deerfield, and Richland townships, and North Washington corporation have no railroads, telegraph, or express companies, and therefore collect no taxes from this class of corporations. To state the problem differently, three townships in Chickasaw county enjoy no revenue from these corporations; while three neighboring townships — New Hampton, Washington, and Dayton — have more actual valuation of railroad, telegraph, and express property than all the remaining taxing districts of the County. To call this either justice or expediency would of course be a logical absurdity. Perhaps no one should object, however, if these seventeen taxing districts through their liberal support of such corporations are willing indirectly to pay the taxes of the three favored townships. It is simply a case of the majority paying the taxes of a small minority.

Nor is this all the information which it is possible to derive from this table. The four cities — Nashua, New Hampton, Lawler, and Fredericksburg — all taken together have but little more than half the actual valuation of railroad, telegraph, and express companies found in the single township of New Hampton. In fact all the cities and incorporated towns have less assessed valuation of this class of property than either Washington or New Hampton townships. It also appears that the township of New Hampton has five times the assessed valuation of railroads, telegraph, and express companies as the city of that name. The same general principles hold true in the case of telephone companies although the inequalities are less marked. Such are the gross inequalities of tax distribution for the leading public service corporations created by the General Assembly of Iowa.

Finally, Table XIX<sup>534</sup> will make the true conditions even more apparent to the reader. This table, which is similar to the one already given for express companies, is self-explanatory. The assessed valuation of telegraph and telephone companies is given for the fifty leading cities of Iowa. For selected cities the valuation is as follows: for Des Moines, \$43,310; for Sioux City, \$25,003; for Council Bluffs, \$7,542; for Ottumwa, \$6,726; for Boone, \$5,162; for Iowa City, \$3,862; for Mason City, \$1,482; for Webster

TABLE XIX<sup>534</sup>

ASSESSED VALUE OF TELEGRAPH AND TELEPHONE COMPANIES IN  
FIFTY LEADING CITIES OF IOWA

CITY NUMBER	CITY	ASSESSED VALUATION
1.....	Des Moines .....	\$43,310
2.....	Dubuque .....	67,789
3.....	Sioux City .....	25,003
4.....	Davenport .....	14,970
5.....	Cedar Rapids .....	31,753
6.....	Burlington .....	7,199
7.....	Council Bluffs .....	7,542

TABLE XIX — CONTINUED

CITY NUMBER	CITY	ASSESSED VALUATION
8.....	Clinton .....	7,905
9.....	Ottumwa .....	6,726
10.....	Muscatine .....	6,361
11.....	Keokuk .....	
12.....	Fort Dodge .....	7,110
13.....	Marshalltown .....	2,788
14.....	Oskaloosa .....	999
15.....	Boone .....	5,162
16.....	Fort Madison .....	3,456
17.....	Iowa City .....	3,862
18.....	Creston .....	2,132
19.....	Mason City .....	1,482
20.....	Centerville .....	523
21.....	Oelwein .....	
22.....	Cedar Falls .....	
23.....	Atlantic .....	815
24.....	Le Mars .....	2,043
25.....	Fairfield .....	622
26.....	Red Oak .....	2,156
27.....	Webster City .....	1,904
28.....	Grinnell .....	2,601
29.....	Charles City .....	91
30.....	Washington .....	807
31.....	Newton .....	112
32.....	Shenandoah .....	2,087
33.....	Perry .....	44
34.....	Clarinda .....	3,805
35.....	Cherokee .....	900
36.....	Albia .....	1,995
37.....	Decorah .....	705
38.....	Independence .....	842
39.....	Maquoketa .....	1,809
40.....	Estherville .....	480
41.....	Mount Pleasant .....	916
42.....	Vinton .....	2,920
43.....	Indianola .....	996
44.....	Waverly .....	1,114
45.....	Missouri Valley .....	
46.....	Belle Plaine .....	4,649
47.....	Ames .....	2,643
48.....	Carroll .....	787
49.....	Knoxville .....	678
50.....	Denison .....	472



City, \$1,904; for Decorah, \$705; and for Ames, \$2,643. In other words, the assessed valuation of public service corporations is so distributed that all the telegraph and telephone companies operating in the average Iowa city pay about the same tax as one individual property owner of moderate circumstances. As stated above, this whole problem will receive more careful analysis in the chapters on railway taxation. How to remedy these inequalities will also appear in a later chapter.<sup>535</sup>

The history of the taxation of telegraph and telephone companies, it may be said in conclusion, falls into five distinct periods. Up to 1868 telegraph companies were included in the general property tax. At that time these corporations, together with express companies, were assessed on a personal property basis at the same rate as the property of individuals, the amount of assessment being arbitrarily fixed at forty per cent of the gross receipts. This unique system prevailed until 1878 when a new law was passed providing for ad valorem assessment of telegraph companies by the Executive Council. The basis of assessment was made the tangible property, a report of which was required of each company, the rate being fixed at the average rate of the general property tax, State, municipal, and local, and the tax paid into the State treasury. This law was applied to telephone companies by a decision of the Supreme Court.

In 1897 important amendments were made largely for the purpose of reaching intangible values, reports for gross receipts, operating expenses, par and market value of the stock, etc., being required of each company. Following the familiar decision of the Supreme Court, the whole system was changed in 1900. The Cheshire plan as applied to express companies was not, however, enacted into law. It was held that the method of assessment provided therein

was arbitrary and would result in the taxation of "imported values". The Blanchard substitute bill, ably championed by the independent telephone interests, was passed, and provided essentially the same plan of assessment and taxation as that applied to railway corporations. Under this plan detailed reports are required and much latitude is given the Executive Council in making the assessment. The chief and fatal objection to the whole plan, as proved by the tables, is that of unjust tax distribution.

## X

### THE INHERITANCE TAX

Some form of inheritance taxation is now included in the budgets of a majority of the American Commonwealths. In some States it is direct; but in a large number only a collateral tax is levied. Iowa belongs to the latter class.

The first important reference made in this State to the general subject of inheritance taxation is to be found in the *Report of the Revenue Commission* of 1893.<sup>536</sup> The bill as drafted by this commission provided for a tax on all estates of decedents passing to direct heirs when the same were worth \$25,000 in personalty, or \$100,000 in realty, and also on all estates passing otherwise and worth over \$2,000. That portion of the bill relating to the classification and rates of the inheritance tax contains the following provisions:

All property within the jurisdiction of this state or interest therein, whether belonging to inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the intestate laws of this state, or by deed, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, in trust or otherwise, shall, except as herein provided, be subject to a tax of five per cent of its value above the sum of \$2,000. up to the sum of \$50,000. inclusive; of seven per cent of the value over and above \$50,000. and up to and including \$100,000; and of ten per cent of the value over and above \$100,000; and all administrators, executors and trustees, and other persons having possession or control of any such property which shall pass as aforesaid, shall be liable for all such taxes until the same shall have been paid, as herein directed.

When the property, or any beneficial interest therein, passes by any such transfer to or for the use of the father, mother, husband,



wife, lineal descendant born in lawful wedlock, the husband or wife or widow of such lawful descendant of the decedent, or some strictly charitable or public purpose, such transfer of property shall not be taxable under this act unless it is personal property of the value of \$25,000, or real property of the value of \$100,000; in which cases the rate of taxation shall be as follows:—

1. On personal property of the value of \$25,000, and over one per centum of the excess over \$25,000.

2. On personal property of the value of \$100,000 and over, an additional one per centum of the excess over \$100,000.

3. On personal property of the value of over \$300,000, an additional one per centum of the amount in excess thereof.

4. On personal property of the value of over \$500,000, an additional rate of one per centum of the amount in excess of \$500,000.

5. On personal property in excess of the value of \$1,000,000, an additional one per cent on such excess, making a rate of five per centum on all amounts in excess of \$1,000,000.

6. On all property of the value of over \$100,000 one per cent of the value in excess of \$100,000, another rate of one and a half per cent of the excess over \$500,000, and another rate of two and a half per cent of the value in excess of \$1,000,000, making a total rate of five per cent on such excess.<sup>537</sup>

Nothing came of this plan, however, as the Revenue Commission bill was not even brought to a vote in 1894.<sup>538</sup> The question of inheritance taxation was again taken up in 1895 by the Code Commissioners. The proposed revision of the *Code of Iowa* contained this provision:

In addition to the taxes hereinbefore provided to be levied and collected, there shall be collected a succession tax from the estates of decedents exceeding in valuation three thousand dollars, as follows: On all sums in excess of three thousand and not exceeding five thousand dollars, two per cent; on all sums in excess of five thousand and not exceeding ten thousand dollars, three per cent; on all sums exceeding ten thousand and not exceeding twenty thousand dollars, four per cent; and upon all sums in excess of twenty thousand dollars, five per cent; which tax shall be collected

by the administrator or executor as a part of the cost of administration, and paid to the county treasurer of the proper county.<sup>539</sup>

It will be noted that this brief section provides for an estate tax without making any distinction between direct and collateral heirs, and is in every way much less complicated than the measure drafted by the Revenue Commission outlined above. In fact, the Code Commissioners refer to the "elaborate provisions for a succession or inheritance tax" recommended by the Revenue Commission, but claim that a more simple measure "will accomplish all that is necessary."<sup>540</sup>

At this time the demand for at least a collateral inheritance tax had become quite general. Governor Jackson recommended it in his biennial message of 1896.<sup>541</sup> When the General Assembly met and the members began to canvass the situation relative to inheritance taxation, it soon became evident that the time was not ripe for levying a direct tax. The majority of members favored a collateral tax, but were opposed to a direct inheritance tax. Accordingly, the Senate Committee on Ways and Means prepared a substitute bill, eliminating the tax on estates passing to direct heirs as provided for by the Code Commissioners.<sup>542</sup> The substitute measure imposing a tax of five per cent on all estates of one thousand dollars and over, after deducting legal debts, and passing to collateral heirs or strangers to the blood, was enacted into law practically without opposition.<sup>543</sup>

The leading provisions of the law may be briefly summarized. A flat rate of five per cent is levied on all estates above the sum of one thousand dollars, after deducting legal debts, save those passing "to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, the lineal descendant of an adopted child of a decedent, or to or for charitable, educational, or religious societies or institutions within this state."<sup>544</sup>

It is made the duty of the executor, administrator, or

trustee, to file an inventory of real estate liable to the tax and cause the same to be entered upon the lien book in the office of the clerk of the court in each county where each particular part of such real estate is situated. All real estate is to be appraised within thirty days after the appointment of an administrator, executor, or trustee, and the tax paid within fifteen months from the approval by the court of such appraisement. Special provisions are made for estates bequeathed for a term of years to lineal descendants and the remainder to a collateral heir or stranger to the blood, also for the disposal of life estates. On these points the provisions of the law are somewhat confused.<sup>545</sup>

All taxes imposed under the provisions of this act are payable to the Treasurer of State. It is made the duty of the administrator, executor, or trustee, if he has not been discharged, and if he has been discharged it is made the duty of the clerk of the court, to file with the Treasurer of State a copy of the appraisement. The district court is given jurisdiction in all questions relating to the tax. The fact is that a careful study of the act reveals a complete division of authority and, what logically follows, an absence of administrative responsibility.

The defects of the law soon became apparent. Moreover the fact that mere legislation can not construct an efficient revenue system is clearly illustrated in our experience with the inheritance tax. In his report for 1897, John Herriott, Treasurer of State, has ably and clearly discussed the numerous defects of the inheritance tax law.

"To any one familiar with the necessities of efficient and successful fiscal administration", says Mr. Herriott, "the defects of the Iowa law are serious. They may be succinctly described as a lack of responsible, central, and systematic control and supervision of the enforcement of the law. No one officer, no one body, is held in any particular sense or



in any definite manner, responsible for the collection of the tax on collateral inheritances. The administrator or executor or trustee, the judge of the district court, the clerk of the court, the Treasurer of State, each at some time or at some stage in the process of the descent of property is charged with something of responsibility; the courts in the main, however, being given the major part of the work of seeing that the tax is collected. One official may act if another, who should have acted, fails to do his duty; but if the first fails, or refuses to act, the second can scarcely accomplish anything because he knows little, or nothing, about the premises."<sup>546</sup>

The absence of an efficient and successful administration so characteristic of our whole financial system, is thus held to be the cardinal defect of the inheritance tax law. Mr. Herriott proceeds to make a more careful analysis of this problem. In the first place, the law does not provide the Treasurer with any adequate means of ascertaining when estates pass to collateral heirs or strangers in blood. Granting, however, that this information is secured, he is then practically helpless, not being able to work through any authorized agent of the department. In other words, the division of authority and responsibility among administrators, trustees, clerks of the court, judges, county attorneys, etc., makes it difficult to secure data or to act promptly in the event that data has been secured. The Treasurer of State is made responsible for the collection of the tax, but, not being provided with adequate fiscal machinery, is powerless to perform that duty.

Again, in the matter of appraisement many abuses were found. An investigation proved that the tax had been reckoned on the assessed rather than the market valuation of lands, lots, etc. For example, ninety acres of land in Monroe County had been reported at \$3.88 an acre, and three hundred twenty acres in Iowa County at \$2.71 per

acre. The situation elsewhere in the State was much the same, indicating the existence of discrimination, a total lack of uniformity, persistent low valuation — in fact, numerous conditions not contemplated by the law. Other defects are pointed out in the report and a brief statement of the history of the tax in Massachusetts and New York is presented. In Massachusetts conditions similar to those in Iowa<sup>547</sup> had prevailed, and to remedy the same, development had been along the line of a more centralized administration and therefore more efficient control.<sup>548</sup> New York had also passed through the same experience. In the beginning almost a complete absence of central administrative control was admitted by the State Comptroller.<sup>549</sup> Later, however, substantial amendments remedied this defect of the law and thus made its operation more effective.<sup>550</sup>

In conclusion, Mr. Herriott presents what appears to the writer as one of the most fundamental defects of the law. We refer to the fact that its administration was made so largely a judicial function. It should be borne in mind that the work of collecting any tax is primarily executive or administrative, not judicial, in character. No court should be required or expected to administer tax laws. Weighed down with this and other serious objections satisfactory results could not reasonably be anticipated. It is not surprising to learn that, at the time the report of the Treasurer was made, only five estates had been listed as passing to collateral heirs.<sup>551</sup> The law, in a word, was practically a dead letter.

Governor Drake called attention to the criticisms and recommendations of the Treasurer of State regarding the collateral inheritance tax and suggested that "it would perhaps be well to give the counties an interest in it and make it the duty of some county officer to attend to the same locally, as the state treasurer is required to do at large."<sup>552</sup>

An act was passed by the Twenty-Eighth General As-

sembly containing amendments which resulted in a somewhat more centralized administrative control. Appraisers were required to give notice to the Treasurer of State, who, in turn, might object to the appraisement and require that it be made at "its value on the market in the ordinary course of trade." Much power and authority in this connection was given to the district court.<sup>553</sup>

Special provisions were made regarding the transfer of corporate stock in the hands of a foreign administrator or trustee, also regarding the transfer of securities and assets by safe deposit companies, trust companies, banks, or other similar institutions. The act further required that a list of collateral heirs be furnished the clerk of the court, specified the compensation and powers of county attorneys, and provided for a special board of six members consisting of the Chief Justice of the Supreme Court and five district judges appointed by him for the purpose of framing uniform rules and regulations relative to the assessment and collection of the collateral inheritance tax for the guidance of the district judges, officers of the court, executors, and administrators.<sup>554</sup>

Pursuant to the authority conferred by act of the General Assembly,<sup>555</sup> Judge H. E. Deemer, Chief Justice of the Supreme Court, appointed five district judges to act with him as a board to frame rules and regulations for the assessment and collection of the tax.<sup>556</sup> Their report was promptly prepared and adopted June 11, 1898. A large number of copies were printed in pamphlet form by the State and widely distributed for the use of judges, clerks of court, county attorneys, executors, administrators, and trustees.

The provisions of this report consist of eleven rules concerning the following subjects: lien book, report by administrators, duties of the clerk, appointment of appraisers, duties of appraisers, duties of the county attorney, duties



of the court, record, costs, book and blanks, and construction. It is made the duty of the clerk of the district court in and for each county to keep a collateral inheritance tax and lien book in which to make an accurate record of all proceedings relative to the inheritance tax.<sup>557</sup>

In case the real estate or any part of it is subject to an inheritance tax, it becomes the duty of the administrator to cause the same to be entered upon the lien book in the office of the clerk of the court in each county where each particular piece of such real estate is located. It is made the duty of the clerk of the district court to keep an accurate and complete account of all inventories, lists of heirs, and other data relative to the inheritance tax. Three competent residents and freeholders of each county are annually appointed by the court to act as appraisers. The appraisal, made in each case after due legal notice, is deposited with the clerk of the court and a copy of the same filed by him with the Treasurer of State.

The duties of the county attorney are specified in rule six. Among other things he is required to make a report in writing of any property he has reason to believe should bear an inheritance tax. A similar duty is lodged with the court itself, which must direct the county attorney to institute proceedings in such cases. In a word, a careful study of the amended law together with the rules and regulations supplementary thereto reveals a division of responsibility — and what always follows, inefficient administration.

Some real progress, however, had been made. Following the recommendations of the Attorney General, made in his report for 1898,<sup>558</sup> the increased powers and duties of county attorneys had produced beneficial results. Concerning changes made in the original law the Treasurer of State says that "the results of this amendatory act were immediate, marked, and of wide beneficial effect."<sup>559</sup> Neverthe-

less a number of additional amendments to the law are recommended. Foremost among these should be noted the suggestion that the Treasury Department be given authority and adequate means for thoroughly investigating the probate court records. It was claimed that this work should be in the hands of one or two inspectors subject to the directions of the head of the department. To the Treasurer of State this appeared to be the only effective method of securing information in cases where local authorities were indifferent or refused to report. "At present", he writes, "the State is helpless if the Clerk of Court and County Attorney are both unwilling to make report and the Court and the attorneys for the estates fail to attend to the tax."<sup>560</sup>

In the second place the Treasurer recommended that the exemption of one thousand dollars should be restricted solely to brothers and sisters of a decedent resident of Iowa. Legislation along this line, however, did not prove to be necessary as the point at issue was settled by judicial construction.<sup>561</sup> Finally, there was a recommendation in favor of a graduated inheritance tax. The rate suggested was seven per cent on estates passing to collateral heirs, residents of other States of the Union, and ten per cent upon property passing to heirs or devisees living in a foreign country.<sup>562</sup>

The General Assembly of 1900 passed an amendatory act making some minor changes in the law. The deduction of debts, foreign estates, appraisement, inventories of personalty, etc., are among the subjects which are, perhaps, more clearly outlined in the amended act. Concerning the valuation of life and term estates, it is noted that "the treasurer of state is directed to obtain and publish for the use of the courts and appraisers throughout the state tables showing the average expectancy of life, and the value of annuities or life and term estates, and the present worth

or value of remainders and reversions.”<sup>563</sup> On the whole, however, the new act did not make substantial changes in the law, the fundamental outlines of which remained the same.

The Treasurer of State in his report for 1901 again gives considerable space to the subject of inheritance taxation. A rapid increase had been made in the amount of collections. In the period just closing, the collections had been \$196,464.54 as compared with only \$52,799.52 for the preceding period. This represented an increase in receipts of about two hundred sixty-eight per cent, indicating a much more efficient administration. Nevertheless, a number of criticisms and suggestions are to be found in the report. He called attention to the fact that “at present, it is necessary to consult the Code, the Acts of the Twenty-seventh General Assembly, the Acts of the Twenty-eighth General Assembly, and the rules adopted by the commission constituted for framing them, before a complete understanding of the law can be had.”<sup>564</sup>

It is further claimed that the law placed a premium on delay. Delays are permitted all along the line — in making reports to clerks, in appraisement, and finally a delay of fifteen months after appraisement for the payment of the tax without interest. One is inclined to endorse the recommendation that the tax should be paid within a uniform period, computed from the date of death as a correct and equitable basis.

In conclusion, the Treasurer of State recommends that the clerk of the district court, being a clerical officer, and having full knowledge of the liability of estates for the tax, be required to notify the Treasury Department of such liability, in lieu of the report by the county attorney. Fees for this work are specified, as are also fees for the legal services of the county attorney.<sup>565</sup> Nothing was done, however, by the Twenty-ninth General Assembly save the passing of



an act relative to the refunding of surplus collateral inheritance taxes,<sup>566</sup> although a bill was introduced, which had been prepared by the Treasury Department, largely for the purpose of making existing laws conform to the decisions of the Supreme Court and the opinions of the Attorney General. In the House this bill was reported out of the committee after being amended so that it was practically worthless, and in this condition, was indefinitely postponed.<sup>567</sup>

In his report for 1903 the Treasurer of State once more gives his views on the subject of inheritance taxation. After referring to the Treasury Department bill which had been amended and indefinitely postponed by the last General Assembly, he states that some counties show constant returns, indicating substantial enforcement of the law; while in the other counties, often of larger wealth and population, practically no returns are made. This condition of affairs, it is alleged, is due to two causes: first, a malicious and concerted attempt to evade the law; and second, ignorance of the provisions of the law. "Probably the principal cause", writes the Treasurer, "is that no point can safely be determined unless one is thoroughly familiar with the whole law and the several decisions of the supreme court."<sup>568</sup> Much importance is rightly attached to this point, and a complete codification of the law, rules, and court decisions is again recommended, to the end that uniformity and efficiency of administration may be secured.<sup>569</sup>

In conformity with an earlier recommendation of the Treasurer of State,<sup>570</sup> the Thirtieth General Assembly passed the Garst inheritance tax bill, providing for a discrimination against non-residents of the United States.<sup>571</sup> The rate as fixed by the new act is twenty per cent for all foreign heirs, unless they be brothers or sisters of the decedent, in which case it is ten per cent.<sup>572</sup> In other words,

the law as amended provides a rate of five per cent on all residents of the United States, ten per cent for brothers or sisters of the decedent living abroad, and twenty per cent for all other heirs who happen to be residents of foreign countries.

A second bill was introduced in 1904 proposing to so amend the law as to give the counties where estates are located a portion of the tax.<sup>573</sup> It was claimed that such a provision, following the Pennsylvania plan, would result in better enforcement of the law and therefore in increased revenue for the State. In this connection State Treasurer G. S. Gilbertson suggests that "a division of the tax between the state and the county and a change in the law requiring clerks to report estates liable for the tax and allowing them compensation for the service, would undoubtedly help to secure a better observance of the law."<sup>574</sup> It would be superfluous at this time to repeat additional criticisms contained in Mr. Gilbertson's report. No suggestion was offered which had not already been made. The law itself has remained practically the same up to the present time. Three amendments relative to exemptions, two passed in 1906,<sup>575</sup> and a third, in 1909, the meaning of which no one can understand, complete the statute as now enforced in Iowa.<sup>576</sup>

This narrative would, however, be incomplete without a brief statement of the efforts that have been made to secure a direct inheritance tax law. It has already been noted that direct inheritance taxation was proposed by the tax commission in 1893, and in a more simplified form by the Code Commissioners in 1895. Following the recommendation of Governor Cummins, the Thirty-Second General Assembly endeavored to pass such an act, but the opposition in the House was too strong.<sup>577</sup> In fact, the bill passed the Senate where it was ably supported by Lieutenant Governor Garst.<sup>578</sup> In 1909 this experience was repeated.

Governor Garst, in his able message to the General Assembly, favored a direct inheritance tax saying: "I recommend a direct inheritance tax substantially in the form of the bill which passed the senate of the Thirty-second General Assembly. This seems to me a fair and equitable proposition. It provides for the exemption of the first ten thousand dollars of individual inheritance, then a tax of one per cent on the second ten thousand dollars, and an additional one per cent on each added ten thousand dollars, until a maximum of five per cent is reached which is to be applied to all above fifty thousand dollars. In view of the fact that inheritances are made possible only through organized society it seems to me that the state has a right to exact these small sums which in the aggregate would add largely to the revenues of the state and be from a source where the burden would be felt less than in any other form."<sup>579</sup>

Bills were introduced, providing for such a tax by Senator Shirley Gilliland and Representative N. J. Lee. The Gilliland bill passed the Senate,<sup>580</sup> but both bills were defeated in the House where they were entirely misunderstood and misinterpreted by the members from the rural districts.<sup>581</sup> The Lee bill provided for a tax on the estate as a whole; while, according to the provisions of the Gilliland bill, the tax was to be levied on the individual inheritance. The schedule of rates of the former bill reads: "Upon all in excess of ten thousand dollars and up to twenty thousand dollars, one and one-half per centum; upon all in excess of twenty thousand dollars and up to forty thousand dollars, two and one-half per centum; upon all in excess of forty thousand dollars and up to sixty thousand dollars, three and one-half per centum; upon all in excess of sixty thousand dollars, five per centum; provided, however, there shall be exempt from such tax the sum of ten thousand dollars to the surviving spouse."<sup>582</sup> It is further stipulated that the present inheritance tax law, where not inconsistent, shall



apply to the assessment, collection, and enforcement of the proposed tax.

Senator Gilliland had made careful study of the subject and his bill was much more in accord with modern economic thought. By the provisions of this bill an exemption of \$10,000 is granted to each individual inheritance, save that "to the surviving spouse there shall be exempt the full net one-third of the estate, however large." Above such exemptions a progressive rate, ranging from one to five per cent depending upon the size of the inheritance, is provided and the present inheritance tax law, where not inconsistent, is made applicable to the proposed measure. The bill was both scientific and conservative — so conservative, in fact, that under its provisions little if any tax would ever have been paid out of the estates of a large majority of the House members who so strenuously opposed it.<sup>583</sup> It was defeated by the very class of men whom inheritance taxation is designed to benefit. The majority of the Committee on Ways and Means in the House, who opposed the measure, were unconsciously sacrificing their own best interests and that of their constituents. Nor can the honesty of purpose of these men be questioned. They were men of the highest integrity, but they acted on a complete misunderstanding of the problem in hand. A similar bill, or perhaps one more radical, if handled with tact, and preceded by a campaign of education, can be enacted into law. It is the most democratic in its nature and the least oppressive of all forms of taxation.<sup>584</sup>

Before proceeding to make a critical analysis of the fundamental defects of the present inheritance tax law of Iowa, it is both logical and necessary to present a brief review of the leading decisions of the Supreme Court, which help to define and explain both the nature of the tax and the scope of the law itself. To do this in detail would require a separate monograph. Here attention will be confined to the

more important cases. Without such a study, a clear understanding of the law and its practical administration is impossible. In fact, much of the difficulty encountered in the levy and collection of this tax is due to a faulty interpretation of the law.

The first important decision, *In re Estate of Thomas H. McGhee*, was handed down in April, 1898. The opinion of the Supreme Court was written by Justice Robinson.<sup>585</sup> A number of vital points were adjudicated in this case. In the first place, it was contended by the appellant and admitted by the State that the tax was not upon property as such but upon the privilege of succeeding to the estate of the decedent. This view was assumed to be true by the court.<sup>586</sup>

The second inquiry was concerning the method of ascertaining the amount of property subject to the tax. Was the thousand dollars to be exempted from the estate as a whole or from each individual share passing to collateral heirs? It was contended by the court that to settle the latter point, the law as a whole should be considered, and that moreover it was a common rule of construction that "words imparting the singular number may be extended to several persons or things."<sup>587</sup> Hence the statutory phrase "to any person"<sup>588</sup> may include more than one, when the plural number is required to give the statute the effect it was intended to have. Following this reasoning the court held that the phrases "*above* the sum of one thousand dollars" and "after the payment of all debts" refer directly to the estate of the decedent.<sup>589</sup>

Finally, Justice Robinson held that the terms "value", "appraised value", and "actual market value", as used in the act, refer to the price which the property would command on the market. It had been claimed that value as contemplated by the statute meant the amount assessed for the levying of ordinary taxes. Such a construction would

have largely destroyed the real purpose of the law — in fact would have been a backward step from the standpoint of a just and efficient tax administration — and therefore the court is no doubt correct in saying that “there is nothing in any part of the act to indicate that the general assembly intended to have the value of the property, as fixed by assessors and equalizing boards, considered for any purpose.”<sup>500</sup>

Thus, early in the history of inheritance taxation in Iowa, the following points were adjudicated: first, that the tax is to be levied on the estate as a whole and not on individual shares; second, that the thousand dollars exemption and deduction of debts refer to the estate; and, finally, that the terms “value”, etc., mean the fair and actual market value as honestly determined by regular appraisers.

In the case of *Ferry et al. vs. Campbell*<sup>501</sup> the original inheritance tax act was declared to be unconstitutional from failure to provide notice of assessment of personal property; but it was further held that this defect was remedied by the amendatory act of 1898. The opinion of the court on this point was ably presented by Justice Deemer in January, 1900. The nature and scope of the term “due process of law” as applied to the original inheritance tax act is clearly defined in this opinion. The Attorney General had declared that the tax was simply a claim against the estate and that no notice of the filing of such claims was required to be given the heirs. From this view the court dissented, referring to the opinions of Judge Cooley, also to the New York law which did require a notice to parties interested, and finally to an opinion of the Supreme Court of that State which held in regard to the matter of notice that “unless he has these, his constitutional right to due process of law has been invaded.”<sup>502</sup>

Following this reasoning Justice Deemer held the act of



the Twenty-sixth General Assembly to be contrary to the provisions of both the Federal and State constitutions.<sup>593</sup> It was further stated, however, that this fatal defect of the original act was cured by the amendatory act of 1898 — a retroactive measure — the right of the General Assembly to pass retroactive legislation being well established by a long line of judicial opinions.<sup>594</sup> The court contended that “while it is true that the original act was unconstitutional because it did not provide for notice, that defect has now been cured, and we must decide the case on appeal in the light of the law as it now exists.”<sup>595</sup> Thus the constitutionality of the law as amended was upheld and the decision of the lower court reversed. The opinion of Justice Deemer, both as to the original law and the amended act, appeals to one as sound legal and economic doctrine. Taxation without some legal form of notice is certainly taking property without due process of law.

In *Herriott vs. Bacon*<sup>596</sup> the purpose of the exemption of one thousand dollars and the proper method of its application were finally determined. It had already been decided in *re McGhee's Estate* that the thousand dollars exemption refers to the estate as a whole and not to individual shares passing to collateral heirs. The question, however, whether the thousand dollars should be exempt from every estate or should merely be considered as descriptive of estates liable for the tax, had not been directly before the court. In *Herriott vs. Bacon* and again in *Gilbertson vs. McCauley*<sup>597</sup> it was held that when the net valuation of an estate does not amount to \$1,000 it is not subject to the inheritance tax; but when it exceeds that sum the tax is due on the entire amount passing to collateral heirs. Justice Ladd, who wrote the opinion of the court in the former case, sustained the appeal of the State and held that the intention of the legislature should be ascertained from the various provisions of the act rather than from the first section thereof. It

was held that any other interpretation would make it impossible to apportion the thousand dollars among collateral heirs equitably where the estate passes as a life or term estate to collateral heirs and the remainder also to collateral legatees. He might have added that any other decision would result in endless and useless complications from the standpoint of practical administration. Justice Ladd summarizes his opinion by saying: "We conclude that the intention of the legislature must have been to exempt all estates of less in value than \$1,000, and when exceeding in value such sum, all property passing to the collateral heirs to be subject to the inheritance tax."<sup>598</sup>

A number of other important decisions relative to inheritance taxation have been made by the Supreme Court, but space will permit only a brief review of these cases. In *Herriott vs. Potter*<sup>599</sup> it was held that where the owner of land died intestate after the enactment of the inheritance tax law in 1896, and before the passing of the retroactive amendment in 1898, curing the defect of the original act, the succession to such land was not subject to the inheritance tax, since under the Code, section 3378 and following, the title and right of disposition and possession passed to the heirs immediately on the owner's death.

An interesting point of law was settled in *State vs. Kiler*.<sup>600</sup> A mother and son had each devised all of his or her property to the other. The death of the mother occurred a short time before that of the son. The court held that upon the death of the son the property passed directly from him to his brother and sister as collateral heirs, and not through the mother, and was therefore subject to the collateral inheritance tax. In *re Estate of John Clark Weaver vs. the State of Iowa* it was held that where a resident of Iowa died possessed of cattle in an adjoining State, which passed under his will to collateral heirs, the proceeds arising from the sale of such cattle, were not liable to the

tax since the situs of the property and not the domicile of the testator was the determining factor.<sup>601</sup>

This doctrine of the situs of property, however, does not hold in the case of mortgages and credits. At least in *Gilbertson vs. Oliver*<sup>602</sup> the court decided that credits held by a non-resident at the time of her death against property located in Iowa were not within the jurisdiction of this State for the purpose of imposing an inheritance tax. This is an instructive case, especially from the standpoint of interstate comity in taxation. It was admitted that there is a conflict in the adjudicated cases, one line of decisions holding that the situs of property and a second line of decisions holding that the domicile of the owner should determine tax liability. The Supreme Court of Iowa here holds — in fact has quite tenaciously held — in favor of the doctrine of domicile.

This analysis of court decisions might be continued almost indefinitely. Enough has been presented, however, to clear up some of the leading points. We have noted that the tax is levied on the estate as a whole, and not on individual shares; that deductions for debt are made from the estate as such; that the thousand dollars exemption is in reality not an exemption at all, but merely a description of estates liable to the tax; that the amendatory act of 1898, providing for notice of appraisement, thus curing the defect of the original act, was made retroactive; and finally, that the doctrine of domicile holds for certain classes of moneys and credits, while that of the situs of property is made to apply in other cases. Regarding the matter of domicile or the situs of property, it should be stated that the decisions of the court are by no means clear and convincing. In fact, this important subject is left quite indefinite by the courts, and other points are still in an involved and unsettled condition. The more carefully one reads the law itself and the court decisions relative thereto, the less he is surprised to find evidence of faulty administration. The law is not un-



derstood by tax officials and those having charge of the settlement of estates, and therefore can not be wisely administered.

In order that the reader may fully appreciate this fact, a brief analysis of the present inheritance tax law is necessary — especially from the standpoint of practical administration. In this connection the writer has received valuable suggestions from Mr. Q. A. Willis of the State Treasury Department, who has had several years' experience in the work of administering the inheritance tax. In fact, Mr. Willis has prepared a written statement pointing out some of the more important defects of the law. Speaking of the measure as a whole he says: "The law in its present form is far from satisfactory. Many amendments have been made, but it is now almost unintelligible. Frequent inquiries are made as to its meaning. It is very difficult to understand and much more difficult to enforce uniformly."<sup>603</sup>

Considering some of the leading sections of the law separately, the first one, or number 1467 of the *Code Supplement* is, perhaps, open to the most serious criticism.<sup>604</sup> In the first place tax officials and the people in general do not seem to understand the meaning of the thousand dollar exemption. The courts have held that it is merely descriptive of estates subject to the tax and is, therefore, not in reality, an exemption. Inquiries are often made along this line, and it is frequently maintained that an exemption of one thousand dollars should always be granted. This very essential part of the section should be so worded that there would be no question as to its meaning. Nor is the meaning of the phrase "after the payment of all debts" any better understood. An effort is made in later sections to explain the term "debts". Again we note the provision requiring that all administrators, executors, trustees, grantees under a conveyance and donees under a gift be held responsible for the payment of the tax. On the one hand this means a care-

less division of responsibility; and on the other, it should be observed that no specific liability is imposed upon an heir at law or beneficiary. The question may well be asked, who is responsible? From the standpoint of the State exchequer this question is frequently not answered.

Finally, the Thirty-third General Assembly added an amendment relative to exemptions which has made this section, already vague and indefinite, still more confused. It is provided that, after striking out the semi-colon following the word "week" in the twelfth line, there be inserted in lieu thereof the words "or any bequest, not to exceed \$500.00, to and in favor of any person, having for its purpose the performance of any religious service to be performed for and in behalf of decedent or any person named in his or her last will and testament, or any cemetery associations."<sup>605</sup>

The writer is informed that many inquiries have already been made concerning the meaning of this amendment. What is the meaning of "any religious service" and by whom should it be performed? The law is not explicit in this regard. Again, it may be asked, does the \$500.00 which may be so exempted refer to any estate, or does it merely apply to bequests of \$500.00 or less? In other words, is the \$500.00 a general exemption or is it descriptive of certain estates as such? From the standpoint of court decisions this is an important consideration. Finally, does the \$500.00 limit apply to bequests to cemetery associations or only to bequests for religious services? The wording of the amendment is certainly unfortunate and does not help to simplify the original act.

The first section of the inheritance tax law should be entirely rewritten so that its meaning can be easily understood, and that without the aid of involved judicial processes.

Section 1467-a undertakes to define in more detail the term "debts"; but here again the meaning is not clear. The

Supreme Court has recently held that the definition of debts contained in this section is only a method of determining whether or not an estate is of a value of one thousand dollars after the payment of debts.<sup>606</sup> On this point Mr. Willis writes that "it is well known that this was not the intent of the legislature. Surely the legislature intended by section 1467-a to define the debts that may be deducted before estimating the tax and not to define the debts that may be considered in determining whether or not an estate is liable for a tax."<sup>607</sup>

Be this as it may, it is not easy to understand why one standard should be used in determining the liability of an estate to the tax and a second standard for the measurement of that tax. Nor is it easy for the writer to comprehend how there can be debts other than those included in the term "all debts" contained in section 1467.

In order that the reader may appreciate in more detail the imperfections of the present inheritance tax law, the following criticisms and suggestions of Mr. Willis are made a part of the text:

Section 1467-d undertakes to provide a method for determining what debts may be deducted in the case of a foreign estate. This section is reasonably clear and it should be understood without difficulty, but certain persons, inclined to be critical, have great difficulty in understanding what it means. It should be so worded as to admit of but one interpretation. Section 1467-e undertakes to prevent discrimination by a foreign estate against this state in the matter of collecting the tax. It has been held in New York that where there is no specific devise of property, the property in a foreign state may be used for the payment of debts or legacies that are not subject to tax, thereby defeating the collection of a tax by that foreign state upon property actually located within that state. This section was evidently intended to overcome that rule, but is so worded as to be easily misunderstood or misinterpreted.

Section 1469 is not sufficiently clear in its provisions to be susceptible of an intelligent understanding. It has never been de-



terminated with certainty just what was intended by this section. It provides that the appraisement of real estate shall be made within 30 days next after the appointment of an executor, administrator or trustee. No reference is made to the appraisement of personal property, and it is not understood why the section should not apply to all of the property of the estate. It requires the appraisement to be made within 30 days after the appointment of an executor. It sometimes happens that an estate passes to collateral heirs and no executor, administrator or trustee is appointed. The law should expressly require some one interested in the property inherited to report such an estate to the clerk and should require that this report be made within a specified time after the death of the owner; within 30 days after the appointment of an executor is entirely too indefinite.

The law should be specific in all of its requirements. It has happened frequently that an estate, subject to the collateral inheritance tax, would not be reported as liable for a tax, or would not be administered upon for years after the death of the owner, and as the law provides no definite method of bringing such estates to the notice of the proper officers, the tax may not be assessed until years after the death of the owner. This section provides that the tax shall be paid within fifteen months from the date of the approval by the court of the appraisement. This is also indefinite. In fact, the entire section should be repealed.

Section 1470 provides for taxing a remainder interest in real estate where the prior estate is not subject to tax. This section provides that upon the termination of the life estate the court shall cause the estate to be appraised at its then actual market value, but the law provides no method by which the termination of a prior estate may be brought to the attention of the court. The law should expressly provide that in cases of life estates and remainder interests where payment of the tax upon a remainder interest is deferred until the termination of the prior estate, the remainder man or some one interested in the property should report the matter to the clerk within a specified time after the termination of the prior estate, and that the clerk should within a limited time issue a commission to the regular collateral inheritance tax appraisers who should appraise the property, and the tax should become due

and payable within a definite time after the death of the life tenant and not following some indefinite time.

Section 1471 provides for the collecting of the tax upon real estate where both the life estate and the remainder interest are taxable. The provision with regard to appraisement is similar to that of Section 1470. The court is to cause the value of the life estate to be appraised, but there is no specific time fixed when this appraisement must be made. The parties owning the life estate should be required to call the matter to the attention of the clerk of the court within a specific time following the death of the owner and the clerk should be required to cause the property to be appraised within a definite time from the date of death. The same definite provision should be made for appraising the remainder interests. This section applies to the tax to be assessed upon a life estate and remainder interest in personal property. It was the intent to make this section apply to the remainder interest in personal property when the prior estate was not taxable, but there is no specific provision in the law with regard to the time of payment of the tax upon a remainder interest in personal property where the prior estate is not taxable, nor is there specific provision as to the time and method of determining the value of such an interest.

Section 1471-a is not sufficiently specific as to the estates to which it was intended to apply and causes opportunity for persons so inclined to quibble over the payment of tax in certain cases. It provides that the taxable value of life or term, deferred or future estates shall be computed at the rate of 4% interest. This provision in its present form is frequently misunderstood and in some cases it has been insisted that it means a tax of 4% shall be assessed. This section was intended to provide a method for determining the value of life, term deferred and future estates and also an annuity, but sections 1470 and 1471 upon which it rests do not apply to annuities and do not cover all of the several different forms of estates the value of which must be determined under the rule or standards of mortality used in actuary combined experience tables.

Section 1472 was a part of the original law and provides that when a bequest is made to an executor in lieu of their allowance or commission that exceeds reasonable compensation for their services, the excess shall be liable for a tax. Section 1467-a provides for de-



ducting the statutory fee of executors before estimating the tax and apparently conflicts, unless the statutory fee would in all cases be considered a reasonable compensation for the service.

Section 1475 requires that the tax to be paid by executors, administrators or trustees, shall be paid within 15 months from the death of the testator, or intestate, within 15 months from the assuming of the trust by such trustee, unless a longer period is fixed by the court. This is an indefinite provision. It is not easy to determine what was meant by the reference to the assuming of the trust by such trustee. The question is frequently asked if the trustee hereby referred to means an executor or an administrator of an estate. This section also provides that if the tax is not paid within the time prescribed in this Act it shall draw interest at the rate of 8% per annum until paid. This part of the section should be included in a section by itself and should definitely state at what time the tax due from the several different classes of estates is to be paid. The section is not generally understood for the reason that it is not generally known that the tax upon a life estate in real estate is to be paid immediately following the death of the owner, while the tax upon the remainder interest is not to be paid until within a short time following the death of the owner of the prior estate and upon ordinary estates within fifteen months from the death of the owner of the estate. This section should be amended and made more specific in its provisions.

Section 1475-a provides for refunding the tax that may have been paid upon property that was not subject thereto. Under a strict and technical construction of this section an excessive tax collected upon property that was clearly liable for the tax could not be recovered.

Section 1476-a provides for relief from appraisement in certain cases, but it should be re-written and should provide for relief from appraisement in cases where the estate was subject to tax only upon specific cash legacies. The entire law with regard to appraisement should be re-written and condensed. It is contained in three or four separate sections and persons not perfectly familiar with the provisions of law relating thereto have great difficulty in understanding the proper method of procedure. The law relating to appraisement will be found in section 1476 and Rules 4 & 5. Per-



haps no part of the law is so nearly perfect as the provision made for determining the value of the property but it is difficult to get appraisers in some localities to comply with the provisions of the law. They frequently persist in omitting all personal property. This we presume is because the personal property is usually appraised for probate purposes. In the majority of cases, cash on hand or on deposit is omitted from the appraisement, perhaps for the reason that it has a fixed value and the appraisers believe that it is not necessary to appraise property of such a nature, but it is necessary that all of the property be appraised so that the appraisement bill may show the full value of the estate. If a part of the property is omitted, even though it has a fixed value, the Treasury Department will have no knowledge of the true value of the estate and a portion of the estate may escape taxation.

Section 1477 authorizes the executor of the estate or the treasurer of state to make application to the court for an order to sell the property for the payment of the tax, but there is nothing in this section that expressly requires the court to make the order asked for, but in Section 1469 it is provided that the court shall order the same or as much of it as may be necessary to pay such tax, to be sold. This provision with regard to the order for sale, should be included in Section 1477. Section 1477-c is intended to prevent the removal of property from the state before the payment of the tax that may be due thereon, but its provisions are not stringent enough. The law should make it a criminal offense to remove the property from the state before payment of the tax.

Section 1477-d provides compensation to the county attorney for reporting estates subject to tax. This should be made the duty of the county clerk. Such estates usually come to his notice before the county attorney has any knowledge of them, and it frequently happens that estates are reported by the clerk or by the appraisers to whom the clerk has issued a commission to appraise the property. If the clerk was allowed a small reporting fee, estates would, as a rule, be more promptly reported.

Section 1479 conflicts with the provisions of Rule 5 and should be repealed. Its provisions are never observed.

The requirements of Section 1479-a and Rule 2 are practically

the same. The law should be re-enacted and the provisions merged in a single section.

Section 1479-b should be amended to require the filing of inventories by those interested in the property of an estate where there has been no executor, administrator or trustee appointed. As the law now stands, an estate may pass entirely to collateral heirs and years may elapse before it comes to the notice of the county attorney or of the clerk.<sup>608</sup>

These are the numerous adverse criticisms of a man who has had several years' experience with the practical administration of the inheritance tax law. In some respects they may be somewhat extreme; but, resting as they do upon actual experience, they are at least worthy of serious consideration.

In 1902 the State Treasury Department prepared a bill which it was thought would correct many of the defects of the law and at the same time include the rules and regulations prepared by the special commission. By including in one draft all matters relating to the levy and collection of the collateral inheritance tax, the Department hoped to secure a more workable law—one that could be more readily understood by revenue officials and taxpayers. The bill was introduced in both the Senate and the House of Representatives,<sup>609</sup> but was indefinitely postponed by the Senate. Among other things the bill clears up the subject of exemptions by providing that all property "when the value of the estate after deducting the debts exceeds the sum of one thousand dollars (\$1,000) shall be subject to a tax of five per centum for the use of the state."<sup>610</sup> The term, "debts" is more carefully defined, and the subject of appraisal also receives more scientific treatment. Along other lines we note a serious effort to simplify and strengthen the law. Following the recommendation of the Treasurer of State, the clerk of the district court is required to file certain reports relative to the estates of dece-

dents, thus indicating an effort to establish real official responsibility.<sup>611</sup>

The brief history of this bill in the General Assembly is well stated by the Treasurer of State. "The Twenty-ninth General Assembly made no change", he writes, "in the law relating to the collection of this tax, and the difficulties remain as related in former reports. A bill was prepared by this department, its provisions being approved by the Attorney-General, and it was introduced in both branches of the last general assembly. It was not designed to radically change the present statutes, but to make them conform to the decisions of the supreme court, where disputed points had been determined by that tribunal, and where they had not been so determined, to conform to the opinions of the Attorney-General. In the House it was reported from the committee but so changed that it was generally thought best not to pass it, and it was indefinitely postponed. The Senate, observing the position taken by the House, did not report the measure out of the committee."<sup>612</sup>

Thus it is seen that after nearly fifteen years of constant legislative enactment relative to inheritance taxation, two things are still needed along this line: first, an inheritance tax law which can be understood; and second, adequate machinery for its efficient administration. Up to date Iowa has no direct inheritance tax law; while the collateral measure is a careless and defective piece of legislation.

First of all, however, there is need of a thorough campaign of education relative to the whole subject of inheritance taxation. No part of the revenue system is at the present time more generally misunderstood. In the future as in the past there will doubtless be vigorous and unceasing opposition until the real nature and purpose of this form of taxation is carefully explained to the people and fully understood by them. To do this would be a desirable function of a temporary, or better a permanent, tax commission.



## XI

### POLL AND LICENSE TAXES

Poll and license taxes were introduced at the very beginning of the Territorial period; and in one form or another such taxes have continued to form a part, although a less important part, of our revenue system.

The first Legislative Assembly provided a poll tax of one dollar on every qualified voter under sixty years of age.<sup>613</sup> It was also enacted that a tax be imposed on each license for retailing spirituous liquors and foreign and domestic groceries by a less quantity than one gallon, in all incorporated towns, one hundred dollars; on all groceries other than those in incorporated towns, fifty dollars; on each license to vend merchandise, not less than ten nor more than fifty dollars per annum, the rate being discretionary with the board of commissioners; on each license for hawking wooden or brass clocks in the county, not less than one hundred nor more than three hundred dollars; and on each ferry not less than five nor more than twenty dollars per annum. Tavern keepers were prohibited from retailing spirituous liquors without a grocery license.<sup>614</sup> Other sections in the same act refer to license taxes and stipulate how and upon whom the same shall be levied. In fact license taxation formed an important part of the revenue system during the Territorial period.<sup>615</sup>

The revenue act passed by the Legislative Assembly in 1841 also contains a number of provisions governing license taxation. The rates are somewhat changed, but the same general principles are followed as in the earlier act. The rate on each ferry kept by authority of law is made not

less than two nor more than fifty dollars per annum; on each license to keep a grocery, not less than twenty-five nor more than one hundred dollars; and other sections stipulate the penalties imposed for not securing licenses as provided by law.<sup>616</sup> In order to make the law effective, it is further enacted "that no person or persons applying for a license or permit, shall be entitled to the same until he, she or they, file with the clerk of the board of commissioners a receipt from the county treasurer for the amount ordered to be paid by such applicant, agreeable to the provisions of this act; and such receipt shall be charged in account against said treasurer on the books of said board of commissioners." <sup>617</sup>

The provisions in this act regarding poll taxes should also be noted. The levy of such a tax is made optional with the board of county commissioners, it being enacted that "the commissioners, should they deem it necessary may annually levy a poll tax, not exceeding one dollar, nor less than fifty cents, on every white male inhabitant in their county, above twenty-one, and under fifty years of age." <sup>618</sup> The use of the word "may" rather than "shall" as specified in the former act<sup>619</sup> is indicative of the strong opposition to this form of taxation which existed at that time.

The debates of the constitutional conventions of 1844 and 1846 reveal considerable opposition to the poll tax. In fact, in the convention of 1844 Mr. J. C. Blankenship proposed that, "Whereas a tax by the poll is grievous and oppressive, &c., therefore no such tax shall ever be laid in the State of Iowa; but all taxing shall be by actual valuation",<sup>620</sup> Some members who were opposed to the principle of levying a poll tax believed, however, that the whole question should be left to the legislature; and so the resolution offered by Mr. Blankenship did not prevail. Nor does any such clause appear in the Constitution of 1846.

In the revenue act passed by the First General Assembly

there are a number of changes. It is provided that a poll tax of fifty cents "shall be assessed" on every male person over twenty-one years of age for county purposes.<sup>621</sup> The provision regarding license taxes is much simplified and the number of such taxes materially reduced. Indeed a movement away from this form of taxation is plainly evident. The law merely provides a tax of twenty-five dollars on every hawker or peddler of goods, wares, and merchandise for the privilege of peddling throughout the State for one year, and a tax of forty dollars on every hawker or peddler of clocks for a similar privilege.<sup>622</sup>

The *Code of 1851* contains but few changes. A poll tax of fifty cents is still provided for county purposes,<sup>623</sup> and in addition, it is further stipulated, that every person liable to pay the county poll tax shall also be required to pay an amount of road tax fixed by the county court at not less than one dollar nor more than two dollars per year.<sup>624</sup> In other words, a poll tax of not less than one and one-half dollars nor more than two and one-half dollars is levied. It is finally provided that the road tax may be paid in labor at the rate of one dollar per day.<sup>625</sup>

By the provisions of the same Code license taxes for State purposes are to be levied as follows: upon each peddler of watches and jewelry, or either, ten dollars; upon each peddler of clocks, twenty dollars. Licenses may be obtained from the judge after paying the proper tax to the treasurer; and any person peddling without a license is guilty of a misdemeanor.<sup>626</sup> The system of license taxation thus outlined, is very different from the lengthy and detailed plan instituted by the first Legislative Assembly of the Territory.<sup>627</sup> The Fourth General Assembly, however, provided some additional license taxes.

In "An Act to amend chapter thirty-seven of the code, in relation to assessors" it is provided that "a tax for State purposes shall be levied upon peddlers of watches, jewelry,



and clocks, dry goods, fancy articles, notions, patent medicines, and other merchandize not manufactured in this State, for a license to peddle throughout the State for one year, as follows: upon each peddler of watches and jewelry, or either of them, thirty dollars; upon each peddler of clocks, fifty dollars; upon each peddler of dry goods, fancy articles, notions, and patent medicines, as follows: upon each foot peddler of such articles, ten dollars; upon each peddler who pursues his occupation with a carriage drawn by one animal, twenty-five dollars; if drawn by two and less than four animals, fifty dollars; if drawn by four or more animals, seventy-five dollars.<sup>628</sup> The same provision is copied in the revenue act approved March 23, 1858,<sup>629</sup> also in the *Revision of 1860*,<sup>630</sup> and finally in the *Code of 1873*.<sup>631</sup>

A poll tax of fifty cents and two days labor on the road was also required of every able-bodied man between the ages of twenty-one and forty-five under the laws of 1858,<sup>632</sup> the *Revision of 1860*,<sup>633</sup> the *Code of 1873*,<sup>634</sup> and the *Code of 1897*.<sup>635</sup> In case the labor is not done the road supervisor may collect the road tax in money, or in case he neglects to do so, the same is added to the property tax and so certified to the auditor.<sup>636</sup>

In 1876 an act was passed to regulate circuses and other public shows. By the provisions of this act, traveling shows were required to pay a license tax to the county treasurer, the sum being fixed by the board of supervisors not exceeding, however, one hundred dollars for each and every place in the county at which such show or circus might exhibit.<sup>637</sup>

No other change of importance is to be noted relative to license taxation until the enactment of the so-called "mulet tax" law in 1894.<sup>638</sup> The purpose of this epoch-making act was to regulate the sale of malt and spirituous liquors. Persons, corporations or partnership firms, except persons holding permits, carrying on the business of selling or keep-

ing for sale intoxicating liquors, were required to pay a "mulet tax" of six hundred dollars in quarterly installments. The revenue thus obtained and paid into the county treasury was to be apportioned in the following manner: "one-half to go into the general county fund, and the remainder to be paid over to the municipality in which the business taxed is conducted. If such business is conducted outside the limits of a city or town then the tax now in hands of county treasurers, or that shall hereafter be collected from such business, shall be apportioned as follows: One-half to the general county fund and the other one-half to the clerk of the township in which such business is conducted. The clerk of the township shall apportion the amount so received by him equally among the road supervisors of the territory of the township outside of the city or town, to be by said road supervisors expended for the improvement of the roads of the districts. In counties where a tax on the traffic in intoxicating liquors is paid into and belongs to the county treasury, and when there is a surplus in the general fund, the board of supervisors may transfer such surplus, not exceeding the amount of such liquor taxes, to the county road fund, and expend the same upon the roads of the county."<sup>639</sup>

The license tax on peddlers as amended in 1874<sup>640</sup> and incorporated in the *Code of 1897*<sup>641</sup> was held unconstitutional on account of the exception as to persons who had served in the Union army or navy. The Supreme Court considered in *State vs. Garbroski* that the classification attempted was based on no real difference in conditions or circumstances.<sup>642</sup> Accordingly, the Twenty-seventh General Assembly passed an act repealing the law and enacting a substitute which provides that "peddlers plying their vocation outside a city or town, shall pay an annual county tax of not less than one dollar nor more than fifty dollars as the board of supervisors of any county may provide for that

county”.<sup>643</sup> This act was also amended in 1904,<sup>644</sup> and again in 1907, increasing the rates and defining more carefully the term “peddlers”<sup>645</sup> — thus giving us the law as it is in force to-day.

This brief narrative concludes our study of the poll and license taxes, save that the last General Assembly (1909) made some amendments in the method of apportioning the mullet tax.<sup>646</sup> The discussion would, however, be incomplete without at least a passing reference to the hard struggle made by Senator C. J. A. Ericson in favor of a license tax on corporations. His efforts along this line culminated in 1907 when a bill providing for such a tax passed the Senate by a bare constitutional majority.<sup>647</sup> The bill provided for an annual license fee on the progressive principle at the following rates: “five dollars on capital stock up to ten thousand dollars, ten dollars on capital stock of over ten thousand dollars up to one hundred thousand dollars, fifteen dollars on capital stock of over one hundred thousand dollars up to five hundred thousand dollars, twenty dollars on over five hundred thousand dollars up to one million dollars and twenty-five dollars on all corporations having capital stock of one million dollars or over.”<sup>648</sup>

The debate on the bill was characterized by much feeling on both sides. Senator Charles Saunders saw in the proposal “the first turn of the screw, an opening wedge to establish the state’s right to collect revenue from corporations with the view of turning the screw whenever more money is needed.”<sup>649</sup> The measure received its support very largely from the so-called progressive element. In fact Governor Cummins had endorsed this form of taxation in connection with his proposal to regulate more carefully the organization of corporations.<sup>650</sup> Senator Ericson informed the writer that the real purpose of the bill was two-fold: first, revenue; and second, information showing the financial standing of corporations.<sup>651</sup>



The opposition, however, proved to be too strong. After much delay the bill was reported with amendments from the Committee on Ways and Means<sup>652</sup> and made a special order.<sup>653</sup> It was referred to the Committee on the Judiciary;<sup>654</sup> and a substitute was again reported,<sup>655</sup> which the Senate refused to adopt.<sup>656</sup> The original bill as amended was then taken up and finally passed.<sup>657</sup> It reached the House near the close of the session, and in the general confusion of the last days was defeated by a small majority.<sup>658</sup>

The subject was again taken up in 1909. In his message Governor Garst said that "a bill should be passed similar to that introduced into the Senate of the Thirty-second General Assembly by Ericson of Boone to require an annual report from all corporations and a filing fee."<sup>659</sup> Moreover, such a measure was passed, providing that corporations, upon filing their certificates and articles of incorporation, shall be required to pay to the Secretary of State a fee of twenty-five dollars, together with a recording fee of ten cents per one hundred words, and an additional fee of one dollar per thousand for all authorized stock in excess of ten thousand dollars.<sup>660</sup> Judging from the immediate past more agitation, perhaps more legislation, may reasonably be expected in the future along the line of a license tax on corporations.

In conclusion, it may be said that some form of poll and license taxation dates back to the very beginning of our Territorial government. The reaction against the former was manifest in the early constitutional conventions, and especially in the law making the levy of a poll tax optional with the county board. This, however, was temporary; and the poll tax so framed as to include the individual road tax of two days work, or the money equivalent, became a permanent part of our fiscal system.

Regarding license taxes it is evident that they were

relatively more important in the period of the Territory and the early history of the State. A reaction against this form of tax appears in the *Code of 1851*. Later additional license taxes developed, including the "mulet" tax and the license tax on corporations.

## XII

### TAX EXEMPTIONS

It is a well settled principle of constitutional law that taxation is the rule and exemption from taxation the exception. In other words, all property is subject to taxation unless clearly and specifically exempted by statute or by constitutional provisions. All governments, however, including our own Federal system, have found it wise and expedient to exempt certain forms of property from taxation. The property thus exempt in Iowa may be conveniently classified under four heads: first, a certain minimum for each individual, largely on the theory that to tax the very necessities of life itself is to impoverish the state and thus destroy the basis of a well ordered revenue system; second, the property of the various units of government; third, the property of religious, benevolent and educational institutions, when used exclusively for said purposes; and fourth, exemptions for the purpose of promoting certain forms of agriculture, commerce, or manufacturing industries.

In Iowa the policy of exemption dates back to the very beginning of the Territorial period. The Organic Law of Iowa entitled "An Act to divide the Territory of Wisconsin and to establish the Territorial Government of Iowa", provides that "no tax shall be imposed upon the property of the United States."<sup>661</sup> The first revenue law enacted by the Legislative Assembly stipulates that seventy-five dollars worth of household furniture to each householder, libraries, tools of mechanics and agricultural implements shall be exempted from taxation.<sup>662</sup> An act passed at the fol-



lowing session added to the list of exemptions "the stock in trade of any merchant or store keeper trading under a license from the county commissioners of the proper county, school lands, or property of any kind belonging or appertaining to schools, sheep, the property of all literary or scientific institutions, together with public buildings and other property belonging to the territory."<sup>663</sup> In 1841 the amount of household furniture exempt to each householder was increased to one hundred dollars.<sup>664</sup>

By the provisions of "An act to provide for assessing and collecting Public Revenue", approved February 15, 1844, a number of minor changes were made, and also additions to the list of exempted property. This act, which is more detailed and specific, contains the following exemptions: first, the property of the United States and of this Territory; second, the personal property of all literary, benevolent, charitable and scientific institutions, that have or may be incorporated by or under the laws of this Territory, and such real estate belonging to such institutions as shall actually be occupied by them for the purposes for which they were incorporated; third, the household furniture of every person, not exceeding one hundred dollars in value, and also his necessary wearing apparel; fourth, all farming utensils, mechanics' tools and private libraries, except where they exceed in value one hundred dollars, in which case the excess over that sum shall be taxed; fifth, all houses of religious worship, and the lot or lots on which they may be situated, not exceeding five acres; the pews and furniture within such houses; all burial grounds, tombs and rights of burial; sixth, all mules, horses and neat cattle, less than one year old, and all swine and sheep less than six months old; and seventh, the polls and estates of persons who, by reason of age, infirmity and poverty, may in the judgment of the assessors be unable to contribute towards the public charges; such judgment being always subject to

ratification or reversal by the board of county commissioners.<sup>665</sup>

The provisions of the first Constitution of Iowa relative to taxation and the taxing power have already been reviewed.<sup>666</sup> Those provisions which stipulate that "all laws of a general nature shall have a uniform operation",<sup>667</sup> and give to the legislative department "all other powers necessary for a branch of the General Assembly of a free and independent State"<sup>668</sup> have a direct bearing upon the question of tax exemptions.

The *Code of 1851*, the "act in relation to Revenue", approved March 23, 1858, and the *Revision of 1860* are much the same from the standpoint of tax exemption. There is noted especially in these acts a more complete summary of the list of public property exempt from taxation, and also the fact that mutual insurance companies are added to the list.<sup>669</sup>

During the session of 1862 a bill was introduced for the encouragement of domestic manufactures. This bill provided for the exempting of fifty sheep, all wool and woollen manufactures, all flax and flax cotton, all sorghum, and all machinery employed in the manufacture of wool, flax, and cotton.<sup>670</sup> A lively discussion followed. Mr. W. B. Lakin was in favor of rejecting the bill with all its amendments. He argued that while salaries and most everything else were being taxed it was unjust to exempt from taxation the most profitable property in the State. Mr. E. G. Bowdoin believed in a diversity of occupations, stating that "if we can by relaxing a little this year and next secure an ample return in the future when these enterprises are fairly established we shall prove our wisdom and foresight."<sup>671</sup> The measure received much support but was finally defeated. The rapid increase of taxation, due to the exigencies of war, made this an inopportune time to exempt property from bearing its share of the fiscal burden.

An act was passed, however, to amend Chapter 45 of the *Revision of 1860*, relating to the exemption from taxation of all grounds and buildings of benevolent, agricultural, and religious institutions so as to include "all property leased to agricultural societies during the term of such lease, *Provided* the same is devoted solely to the appropriate objects of said societies."<sup>672</sup> Other minor changes followed. In 1864 an act was passed to exempt from taxation the property of bible societies in case said property was "devoted solely to such purposes."<sup>673</sup>

In 1868 a more important measure was passed entitled "An Act to Encourage the Planting and Growing of Timber, Fruit Trees, Shade Trees, and Hedges."<sup>674</sup> Many abuses soon resulted from the faulty administration of this act. A second act was passed in 1872 relating to the exemption from taxation of forest, fruit, and shade trees and hedges. This act should be carefully read in connection with the previous one as they form parts of the same general law. Under the provisions of the latter no person was permitted to have more than one-half his real estate exempted from taxation.<sup>675</sup>

Thus, when the *Code of 1873* was enacted the following classes of property were specifically exempted from taxation: first, the property of various units of government; second, the property of certain educational, agricultural, charitable and benevolent institutions when used exclusively for said purposes; third, a minimum of personal effects, tools, implements, etc., for each individual taxpayer; fourth, the polls or estates, or both, of persons who, by reason of age or infirmity, are unable to contribute to the public revenue; fifth, exemptions for encouraging the culture of forest, fruit, and shade trees, and hedges; and finally certain rebates "where buildings are destroyed by fire, tornado, or other unavoidable casualty."<sup>676</sup>

The exemptions for the encouragement of tree culture



merit special attention. The *Code of 1873* provides relative thereto that "for every acre of forest trees planted and cultivated for timber within the state, the trees thereon not being more than twelve feet apart and kept in a healthy condition, the sum of one hundred dollars shall be exempted from taxation upon the owner's assessment, for ten years after each acre is so planted. For every acre of fruit trees planted and suitably cultivated within the state, the trees thereon not being more than thirty-three feet apart and kept in a healthy condition, the sum of fifty dollars shall be exempted from taxation upon the owner's assessment, for five years after each acre is planted. Such exemption shall be made by the assessor at the time of the annual assessment, upon satisfactory proof that the party claiming the same has complied with this section; and the assessor shall return to the board of equalization the name of each person claiming exemption, the quantity of lands planted to timber or fruit trees, and the amount deducted from the valuation of his property.

"The board of supervisors may exempt from taxation for any one year, except for state purposes, an amount not exceeding five hundred dollars for each acre of forest trees less than three years old, planted and suitably cultivated for timber, or for each one-fourth mile of hedge, or for each one-fourth mile of shade trees along the public highway, or for each acre of fruit trees not more than three years old, and also a proportionate exemption for each one-fourth mile of hedge, or one-fourth mile of shade trees along the public highway. Such board, before granting any of the exemptions contemplated in this section, shall establish rules as to the method of planting and cultivating such hedges and trees, and the number of the same to the mile or acre, and persons claiming such exemption shall bring satisfactory proof that such rules have been complied with. But no person shall have any personal property more than

one-half his real estate exempted under this and the foregoing section, nor shall there be any exemption on account of nursery trees grown for sale. Any person claiming such exemption may appear before the board of supervisors at any regular meeting, and, upon showing to the satisfaction of said board that he has complied with the requirements, shall receive from the county auditor a certificate, stating the amount of the exemption, which shall be received by the county treasurer in satisfaction of the taxes exempted.”<sup>677</sup>

The decade which followed the enactment of the *Code of 1873* was characterized by a long controversy concerning the taxation of church property. Space will permit only a brief consideration of the interesting debates on this subject. Senator John Shane introduced a resolution in 1874 providing for the taxation of church property.<sup>678</sup> The Senator declared that a vast sum of money was annually paid to the various religious denominations in the way of exemptions from taxes.<sup>679</sup> He said that “there are in Iowa, church accommodations for 421,000 persons. That the other 850,000 citizens of the State that have no church accommodations are compelled by the law as it now stands to pay at least two thirds of the taxes which these religious congregations used by the one-third, ought to pay. It is a self evident proposition that insofar as the six millions of church property of Iowa is exempt from taxation, the amount of the revenue that such property would yield must be made up from additional levies on the hard working farmer, mechanic, artizan and merchant.”<sup>680</sup>

The majority of Senators, however, did not hold these extreme views. Senator M. A. McCoid contended that the arguments in favor of the resolution were based on false premises. “It is the public taxing the people upon their donations to that public”, he declared. “Church property is donated to the public in trust for specific purposes, it is

open to all; they are public finger boards, pointing to a highway of holier living, light houses emitting the light of the world, and warnings of shoals and breakers on which hopes are shipwrecked; they are public wells or fountains of living water at which all may drink".<sup>681</sup> After a number of lively and entertaining debates, which disclosed something of argument but more of prejudice, the resolution was finally defeated.<sup>682</sup> A substitute to the resolution, introduced by Senator McCoid was also indefinitely postponed.<sup>683</sup>

During the session of 1874, moreover, some changes and additions were made in the matter of exemptions and rebates. An act was passed providing for the repeal of section 800 of the *Code of 1873* relating to the rebate of taxes on property destroyed and substituting in lieu thereof the provision that "the board of supervisors shall have power to rebate in whole or in part the taxes of any person whose buildings, crops, stock, or other property has been destroyed by fire, tornado, or other unavoidable casualty, if said property has not been sold for taxes or if said taxes have not been in default for thirty days at the time of destruction. But the loss for which such rebate is allowed shall be such only as is not covered by insurance." <sup>684</sup>

A second act amended the law relative to the exemptions for forest, shade, and fruit trees and hedges. It was provided that no person should have any personal property nor more than one-half his real estate exempted and that no exemption should be granted on account of nursery trees grown for sale.<sup>685</sup> It was further enacted by the Fifteenth General Assembly that certain exemptions be granted to savings banks. Thus "the franchise of all such banks, the savings and funds deposited therein, and the mortgages and other securities, wherever the same are invested, are not to be taxed, but are expressly exempted therefrom and may be omitted from assessments of the bank required by the revenue laws of the state".<sup>686</sup>



In 1876 an effort was again made by Senator Shane to tax church property.<sup>687</sup> A bill was introduced by Senator McCoid along more conservative lines than the resolution proposed during the previous session.<sup>688</sup> Senator William Larrabee from the Committee on Ways and Means reported back what was practically a substitute bill. The principal section of the amended bill provided "that all property of religious societies not in actual use for public worship, parsonage, school, or cemetery purposes shall be assessed and taxed the same as that of individuals."<sup>689</sup>

Senator Larrabee was opposed to the original bill and contended that the existing law was good and should not be materially changed. "There are two codes of law," said the Senator, "the statute and the moral law. There are two systems of taxation, one levied under the statute, the other under the moral law. The tax levied under the statute law builds our court houses and runs our government; that under the moral law builds our churches, and I can not see why this latter tax levied under the moral law, should be taxed to support those institutions held by taxes levied under the statute law."<sup>690</sup>

The committee bill passed the Senate with ten negative votes,<sup>691</sup> and was recommended for passage in the House;<sup>692</sup> but it does not appear in the laws of 1876. In fact no law of importance relative to tax exemptions was enacted by the Sixteenth General Assembly.

In 1878 a minor amendment was made to the law relating to exemptions for planting and cultivating forest trees.<sup>693</sup> During the following (1880) session of the General Assembly the question of taxing church property again came up. A petition was circulated throughout Iowa asking the legislature to tax this form of property for the following reasons: first, that to exempt church property from taxation is to support sectarian religion; second, it is a principle of justice; and finally, "by continued exemption of

church property from taxation ecclesiastical corporations are enabled to amass great wealth''.<sup>694</sup> The opposition, however, was too strong and no law was enacted. In fact, the demand for the taxation of church property was beginning to lose much of its force.<sup>695</sup>

A number of other questions now came forward relative to tax exemptions. The exemptions on account of forest and fruit trees had resulted in many abuses. The law had been changed from time to time, and in fact was amended in 1880 so as to limit the amount to one-half the valuation of the realty on which such exemption was claimed.<sup>696</sup> The abuses became so flagrant that the Auditor of State recommended the unconditional repeal of the law granting exemptions for the culture of fruit and forest trees.<sup>697</sup> It was claimed by the Auditor that seven-eighths of the exemptions secured under this act were granted illegally and that no effort was made to obey either the letter or spirit of the law. The \$6,305,884 thus exempted in the various counties of the State ought in his opinion to bear its just share of the public burdens.

Taxation of church property once more came up in 1884. The bill relative thereto was introduced by Senator John C. Bills, reported unfavorably by the Committee on Ways and Means, brought out by special assignment, passed with a bare majority of twenty-six, nearly a third of the Senate being absent, was reconsidered, and finally ordered engrossed.<sup>698</sup> Petitions were at once circulated against the measure. Popular opposition became very outspoken, and the bill was once more defeated.<sup>699</sup>

Governor Sherman in 1886 recommended legislation relative to the taxation of church property, stating that "under the present law, as generally interpreted, all church property, of whatever nature, is exempt from tax payment — and in this matter I am satisfied great injustice is done. It is well enough to exempt church buildings actually

used as such — but when it is sought to include the palatial residences of pastors, which are often the most valuable in the district, and yet impose all taxes upon the poor man's cabin, I think it is carrying the matter altogether too far.”<sup>700</sup> The suggestions of the Governor, however, were not enacted into law. In fact, the question of the taxation of church property was practically abandoned at this time.

A third subject relative to tax exemptions came up for serious consideration in the session of 1886, namely, that of homestead exemptions. A bill introduced by Senator C. H. Gatch<sup>701</sup> was designed to take the burden of taxation from the poorer owners of homesteads. It was recommended for indefinite postponement by the Committee on Ways and Means<sup>702</sup> but was made a special order and after a lively debate was defeated by a vote of nineteen to twenty-six.<sup>703</sup>

Senator Gatch, however, made a lengthy and able speech in favor of the measure, the principal points of which are worthy of consideration. He contended that the tax laws were so administered that “the property of the poor bears an unequal proportion of the burdens of taxation.”<sup>704</sup> It was further alleged that the actual amount of property exempted would not be large, when considered relatively. Men of means would derive small profit from the proposed exemption because they would be obliged to pay an increased rate on the balance of their property. In a word, the slightly progressive principle proposed in the bill would primarily benefit the poor man. This the Senator claimed was just for the reason that the property of the poor man was assessed more nearly at its full value than the property of the rich.

Again the argument was advanced that most of the exemptions provided by law did not benefit the man of small means. Mention was made of libraries, trees, etc. It was claimed that the exemption for trees planted was considerably more than the value of homesteads that would be



wholly exempt under the proposed law. Finally, Senator Gatch argued that if it is just to exempt the entire homestead to the value in many cases of thousands of dollars from judicial sale on account of private creditors, it would certainly be right and just to exempt the same homestead from taxation to the very limited amount proposed by this bill against the public demand of the State.<sup>705</sup> Reference to this important bill will be made in another connection.<sup>706</sup>

The homestead exemption bill was again introduced at the following session (1888), and received much support. The real argument in its favor, clearly outlined by Senator Gatch, was that real estate was bearing an undue share of the public burden and personalty or unseen property was quite generally escaping taxation. To correct this growing evil what would amount to one form of income taxation was proposed. As provided in the bill a man with a homestead worth \$1000 would pay no tax, a man with a homestead worth \$3000 would receive some benefit from the exemption. On the other hand, if a homestead was worth \$10,000 no benefit would be derived as the increase of rate would just compensate for the exemption.<sup>707</sup>

No further steps were taken to change the tax exemption laws until the meeting of the Twenty-fifth General Assembly. At this time the Revenue Commission created in 1892 made its report, recommending three important changes in the law. The bill was drafted to include all libraries, whether professional or private, kitchen and household furniture, except as used for hotel and boarding house purposes, all farming utensils and all mechanics tools by which their owners make their livelihood, as well as all vehicles not used for hire.<sup>708</sup> In the second place, no provision was made for the deduction of indebtedness from the amount of moneys and credits, and finally, the exemption for tree culture was omitted. It was alleged that the benefits to be derived from the exemption for tree culture were in-

significant when compared with the "improper avoidance of taxation" which had always characterized this section of the law. The report of the Commission was rejected for reasons which have already been explained.

The enactment of a law in 1896 to exempt crematoriums from taxation brings us to the *Code of 1897*.<sup>709</sup> This Code contains little that is new in the matter of tax exemptions. The classification of the list is made somewhat more systematic.<sup>710</sup> A comparison of section 1304 of the *Code of 1897* with section 797 of the *Code of 1873* reveals a striking similarity and shows but few material changes. It should be noted, however, that the series of acts relating to exemption for tree culture are omitted from the new Code. This was due to the many abuses incident to the administration of the law. In fact the repeal of this law had been frequently recommended.<sup>711</sup>

A few additions and amendments have been made since the enactment of the *Code of 1897*. In 1900 an act was passed granting certain exemptions for the purpose of encouraging the manufacture of sugar.<sup>712</sup> In 1902 an act was passed exempting an amount of property not to exceed eight hundred dollars in actual value of any honorably discharged Union soldier or sailor of the Mexican War or the War of the Rebellion or of the widow remaining unmarried of such soldier or sailor.<sup>713</sup>

The accumulations and funds of fraternal beneficiary associations were exempted by a law passed in 1906.<sup>714</sup> At the same session an act was passed to encourage the planting of forest and fruit trees. This measure should be carefully distinguished from the earlier acts of this class. It merely provides, first, a flat taxable valuation of one dollar an acre for forest reservations, and second, that the assessor shall not increase the valuation of property because of such improvements.<sup>715</sup> At the following session the exemption to encourage the beet sugar industry was extended to

the year 1917.<sup>716</sup> Finally, in 1909, an act was passed exempting from taxation "municipal, school and drainage bonds or certificates hereafter issued". It is specified in the act, however, that no deduction shall be granted from the assessment of the stock of any bank or trust company on account of the holding of said bonds or certificates.<sup>717</sup> This law was passed largely through the efforts of Mr. Edward McDonald, and while it encountered some opposition, one is convinced that its underlying principles are sound both from a general and a fiscal standpoint.

To review the subject of tax exemptions, it will be recalled that the general principle of the system dates back to the beginning of the Territorial period, having been incorporated in the first finance bill that passed the Legislative Assembly. Indeed, it may also be stated that the justice and expediency of exempting certain forms of property from taxation are generally recognized by the other States of the Union and by all foreign nations. The amount and classes of property exempt depends upon the character of the government and numerous other conditions.

In the second place, it should not be forgotten that taxation is the rule in Iowa, and exemption from taxation the exception. While the court decisions are not always clear and consistent on this, as on many other fiscal questions, the rule is well nigh universal that tax exemption laws are strictly construed.<sup>718</sup> No property is exempted unless clear and explicit legislation has been enacted authorizing the same. The burden of proof is with the person claiming exemption and the presumption of law is in favor of liability for taxation.<sup>719</sup>

In the history of taxation in Iowa, as a result of positive legislation supplemented by judicial construction, elaborate provisions have been gradually developed exempting several classes of property from bearing any part of the fiscal



burden. A critical study of these classes will reveal to the reader the large amount of wealth now exempt under the provisions of the Iowa revenue law.

From a careful examination of the *Code Supplement*<sup>720</sup> it is apparent that a vast amount of property does not bear any part of the burdens of government. For example, take the average farm of Iowa. One is inclined to think that the farmer bears a large part, perhaps an undue share of the fiscal burden. In many cases this may be true—at least many authorities so state, and the political opportunist always advances this view, often with a telling effect. Yet a critical study of the *Supplement* makes it clear that a large amount of farm property is exempt from taxation. Well informed persons have estimated that from one to five thousand dollars worth of property is entirely exempt from taxation on the average Iowa farm — a fact which will be quite generally acknowledged by the farmers themselves. Considered in the light of our fiscal history this fact is significant. For a generation or more an effort was made to pass a law securing to the farmer a privilege, long enjoyed by the money lender and banker, namely, the right to deduct his debts from the value of his real estate.<sup>721</sup> This plan was defeated; but in under-assessment and in the complete exemption of a large amount of property the same purpose has largely been accomplished. Some of the exemptions above outlined should, however, in justice to the farmer be thought of in connection with that provision of the Code which grants the privilege of deducting just debts from the amount of one's moneys and credits listed for taxation. The homestead exemption bill mentioned in the text and the prolonged agitation relative thereto should likewise be judged by the same standards.

In conclusion one should also remember, first, the long struggle concerning the taxation of church property which ended with little or nothing accomplished; second, the laws

granting exemptions for the growing of certain trees, and why the same were ultimately repealed; and third, the exemptions granted to promote certain industrial enterprises, as in the case of beet sugar.

### XIII

#### TAX LIMITATIONS

In the Organic Law of Iowa, entitled "An Act to divide the Territory of Wisconsin and to establish the Territorial Government of Iowa", <sup>722</sup> no specific limitations are placed upon the taxing power aside from the general prohibition against taxing property of the United States, or the lands and other property of non-residents higher than that of residents. It is stipulated that the "Legislative power of the Territory shall extend to all rightful subjects of legislation", subject to a veto by the Governor or the Congress of the United States.<sup>723</sup> The principle of placing a direct statutory limitation on the taxing power dates back to the first Legislative Assembly of the Territory of Iowa. In "An act for assessing and collecting county revenue", approved January 24, 1839,<sup>724</sup> it is provided that the tax levied shall not in any case exceed five mills on the dollar.<sup>725</sup> This rate was retained in the law which was passed two years later.<sup>726</sup> In 1848, however, the rate was reduced to four mills.<sup>727</sup>

No express limitation as to the amount of taxes was made in the first Constitution of Iowa. The framers of that instrument considered that this and similar questions of detail belonged to the sphere of statutory rather than constitutional law. Statutory limitations, however, continued to be enacted. In the *Code of 1851* it is provided that the county court shall levy the following taxes upon the assessed value of the taxable property of the county: for State revenue three mills on the dollar, when no rate is directed by the Census Board; for ordinary county revenue,



including the support of the poor, not more than six mills on the dollar, and a poll tax of fifty cents; for the support of schools not less than one-half mill nor more than one mill and a half on the dollar; and for roads as directed in the chapter relating to roads.<sup>728</sup> To this list was added in 1858 a tax of "not more than one mill on the dollar" for making and repairing bridges — such tax to be established by a vote of the people of the county, upon the question being submitted to them according to law.<sup>729</sup>

In the *Revision of 1860* a material reduction of the rate was permitted by law. The amount to be levied for State revenue by the board of supervisors of each county is reduced to one and one-half mills, when no rate is directed by the Census Board; but it is further stipulated that in no case shall the Census Board direct a levy to be made exceeding two mills on the dollar. For ordinary county revenue, including the support of the poor, the rate is reduced to not more than four mills on the dollar. For the support of schools, however, the rate is increased to not less than one nor more than two mills on a dollar. Finally, it is provided that the rate of not more than one mill on the dollar for making and repairing bridges may be levied by the Board of Supervisors without being submitted to a direct vote of the people.<sup>730</sup> In 1866 this rate was increased to three mills.<sup>731</sup> Minor changes were made in 1868, and in 1870 the maximum levy for road purposes was further increased to five mills.<sup>732</sup>

Other limitations on the taxing power followed. The rate to create a sinking fund in cities was increased to two mills.<sup>733</sup> Up to this time it had been only one mill.<sup>734</sup> An act was also passed to authorize counties to establish and maintain high schools, it being stipulated that "in no case shall the tax for such purposes exceed, in any one year, the amount of five mills on the dollar on the taxable property of the county, and, when the tax is levied for the payment of teachers' wages and contingent expenses only, shall not exceed two mills on the dollar."<sup>735</sup>

At this time large subsidies were being granted to railroad companies by townships, counties, and other local units.<sup>736</sup> The danger of giving local units complete freedom in granting such subsidies soon became apparent. The whole question of tax limitations was carefully discussed by Governor Merrill in his message of 1872. "I suggest to the Legislature," said the Governor, "the propriety of adopting a maximum limit of taxation to which any property may be subjected in one year".<sup>737</sup> The reasons for this recommendation are apparent in view of the maximum levies then authorized by law, which were as follows: for the State, two mills; for the county, for ordinary revenue, four mills, for high schools, four mills, for bridges, three mills, and for public buildings, two mills; for townships, for roads, five mills, for railroads, fifty mills; and for school districts and sub-school districts, fifteen mills. This made a total levy of eighty mills. Nor did this large levy include certain taxes in cities where it was possible for the maximum levy in a sub-district to reach ninety-six and one-half mills, and in some cities even higher. Governor Merrill held that these high rates were unreasonable and should be prohibited by act of the General Assembly.<sup>738</sup>

In his inaugural address, Governor Carpenter also reviewed the subject of tax limitations, saying: "And here I may not inappropriately speak of the uncalculating manner in which many communities — and especially of the more sparsely populated counties — impose taxes upon themselves. If there is legislative power this should be remedied. I cannot think it would do municipal corporations a very great injustice so to hedge the privilege of imposing obligations upon themselves that their power to contract debts will be kept somewhere within the boundary of ability to pay".<sup>739</sup> Conforming to the spirit of these recommendations and suggestions, the Fourteenth General Assembly repealed the township railroad aid law.<sup>740</sup> Two im-



portant acts of this class had been passed — one in 1868 and the second in 1870.<sup>741</sup>

Other acts were passed placing limitations on the local taxing power. One act in particular should be noted as indicative of the more extreme type of this class of legislation, namely, the act limiting the amount to be raised for the “contingent fund” to five dollars per scholar, and for “teachers fund” to fifteen dollars per scholar.<sup>742</sup>

This brings us to a consideration of the *Code of 1873*, the provisions of which may be briefly summarized. It was first provided in this Code that the rate of tax to be levied by the county board of supervisors “shall in no case be more than one per cent. on the county valuation in one year”.<sup>743</sup> The rate for State revenue was to be one and one-half mills on the dollar, or an amount to be directed by the Executive Council not exceeding two mills on the dollar. The rate for county revenue, including the support of the poor, was fixed at four mills on the dollar, and a poll tax of fifty cents. The rate for the support of schools was not to be less than one nor more than three mills, and that for making and repairing bridges not more than three mills on the dollar. The maximum rate to be levied by the Council or trustees of cities and incorporated towns was fixed at ten mills for general and incidental expenses, with two mills additional to create a sinking fund for the gradual extinguishment of the bonds and funded debt.<sup>744</sup>

Other special taxes provided in the *Code of 1873* are: a poor tax not exceeding one mill on the dollar, to be entered on the county list and collected as the ordinary tax; a school tax of not more than five mills, only two mills of which could be used for the payment of teachers’ wages and contingent expenses; and finally, a rate not exceeding ten mills to be used by independent school districts in the purchase of grounds, construction of school buildings, procuring of library apparatus, and the like.<sup>745</sup>



In 1874 Governor Carpenter again called the attention of the General Assembly to the desirability of tax limitations. "A two-mills tax for State purposes", he said, "never prevented a dollar in capital from coming to Iowa; but local taxes and local mismanagement have done so. I have been told that a portion of the colony of Russian Menonites were greatly pleased with one of our northwestern counties, and would have located there, had they not learned of the enormous indebtedness which the county authorities have contracted, and which will hang like a millstone upon every legitimate enterprise of the people for years to come".<sup>746</sup> The Governor reviewed tables prepared by the Auditor, indicating the relative amount of State and local taxation, showing that the tax burden was almost entirely local, and that its remedy was at the source of the evil.<sup>747</sup>

During the years that intervened between the *Code of 1873* and the enactment of the new *Code of 1897* many laws were passed relating to limitations on the taxing power. Some of these laws defined and limited the taxing power of cities in relation to the construction of sewers,<sup>748</sup> paving of streets,<sup>749</sup> building of parks,<sup>750</sup> funding of outstanding debts,<sup>751</sup> and numerous other purposes. Other laws related to the many forms of county, township, and school district taxation. In order to appreciate the multitude of details contained in these statutes, it is only necessary to review the provisions of the *Code of 1897*.

Cities of the first class, not under special charters, are authorized to levy the following maximum rates of taxation: three mills on the dollar for a city bridge fund; three mills for a grading fund; five mills for a city improvement fund; two mills for a sewer fund; one mill for library; five mills for water works; five mills for gas or electric plant; five mills for water; five mills for gas, electric light or power; a bond fund tax sufficient to pay interest and principal at the close of a specified period; and finally, a ceme-

tery tax of one-half of one mill.<sup>752</sup> For cities under special charters the rates are nearly the same.<sup>753</sup> Numerous other special provisions might be mentioned.

The taxes levied by the board of supervisors of each county are as follows: for State revenue, such rate of tax as shall be fixed by the Executive Council as hereinafter provided; for ordinary county revenue, not more than six mills on a dollar in counties having a population of less than twenty thousand, and in counties having a population of twenty thousand or more, four mills, with a poll tax in either case of fifty cents on each male resident over twenty-one years of age. But in any county in which the levy is limited to four mills the board of supervisors may, at any general election, submit the question of increasing such levy to six mills or less to a vote of the electors, and if such proposition is adopted the board of supervisors may make the next general levy at the proposed rate; for support of schools, not less than one nor more than three mills on a dollar; and for making and repairing bridges, not more than three mills on a dollar; but such tax shall not be levied upon any property assessable within the limits of any city of the first class, and none of such bridge tax shall be used in the construction or repair of bridges within the limits of such city.<sup>754</sup>

Other special levies, such as those for the support of the poor <sup>755</sup> and the insane <sup>756</sup> might be mentioned. Since 1897 many changes and some additions have been made in the law relating to tax limitations; and at the present time the whole system of local taxation is strictly defined and rigidly limited by acts of the General Assembly. The public school system, both elementary and that for higher instruction, improvements in cities such as streets, water, light, heat, sewers, parks, and the like — in fact the whole fabric of our fiscal system in the local units of government — rest upon a foundation of statutory limitations. If a certain city or

other taxing district desires to levy taxes for any purpose in addition to the rate prescribed by law, it requires a special act of the General Assembly.

It is not proposed at present to comment on the wisdom of this policy. From the standpoint of political science it is no doubt a logical development. The local units of government are in a very real sense the creations of the State. Their general powers and duties are defined by statute. In the case of taxation, legislators have quite generally considered that special reasons exist for limiting the power of local communities. A thorough study of railroad aid taxes,<sup>757</sup> so closely and vitally connected with the whole problem under consideration, would shed much light on the reasons for carefully limiting the rights and powers of cities, townships and counties in matters of taxation. Such a study belongs logically in a history of transportation. In the second place, a monograph on the history of public debt in Iowa, State and local, would reveal many facts in connection with this problem. In many ways the whole question under consideration may best be approached and studied from the standpoint of public debt. Finally, the feeling that high rates of taxes are frequently voted by irresponsible men who at the same time bear no share of the fiscal burden, has had much weight in determining the course of practical legislation. For these and other reasons which might be named the General Assembly has adopted the policy of protecting the people against themselves by imposing rigid limitations and restrictions on the local taxing power.<sup>758</sup>

In order to form a clear idea of the complexity of our tax system on the one hand, and how it is limited and defined in the most minute detail by acts of the General Assembly on the other, it is only necessary to examine the printed blank showing the tax levy in any of the hundreds



of taxing districts of the State. This blank shows: first, the consolidated list, including the various State and county levies; and second, the numerous district, township and city levies. From the standpoint of administration, the assessment of property and the levy of taxes offer a striking contrast. While the people of Iowa have always held tenaciously to the principle of local "home rule" or fiscal decentralization in matters of assessment, surrendering the forms and retaining the substance of power, it appears that they have seldom been quite willing to trust themselves when it comes to the question of the tax levy. It is true that considerable freedom is exercised, but only within certain well-defined statutory limitations; and when any local unit of government desires to exceed the maximum levies prescribed by law it can do so only by special act of the General Assembly. It is obvious that such a policy has both its advantages and disadvantages. One would not be warranted in drawing many general conclusions until he becomes thoroughly familiar with the history of railroad aid taxes, and especially the history of public debt in the cities and other local units of government.

## XIV

### THE TAXATION OF MONEYS AND CREDITS

The revenue act passed by the first Legislative Assembly of the Territory of Iowa contains no direct reference to the taxation of moneys and credits; the statute merely provides that the tax levied by the board of county commissioners shall include "all personal property", with certain exceptions thereafter enumerated.<sup>759</sup> This law remained practically unchanged until 1844, when an act was passed providing that when personal property is mortgaged or pledged it shall for the purpose of taxation be deemed the property of the person who has the possession, and that money at interest and stocks in any corporation or association shall be considered personal property and taxed "at their true value".<sup>760</sup> In 1847 permission was legally granted every person to deduct "the amount which he may owe" from his moneys and credits listed for taxation.<sup>761</sup>

The provisions of the *Code of 1851* relative to the taxation of moneys and credits are much more detailed in scope. They contain the fundamental outlines of the tax on credits which prevails in Iowa at the present time. In fact more than half a century of development has brought but few important changes in this part of our system of taxation. The term "credit" is defined so as to include "every claim and demand for money, labor, or other valuable thing, and every annuity or sum of money receivable at stated periods, and all money in property of any kind and secured by deed, mortgage or otherwise".<sup>762</sup> Pensions from the United States, however, and salaries or payments for services expected to be rendered are not to be included. It is further

provided that depreciated bank notes and depreciated stock or shares in corporations or companies may be listed at their current value and rate; but credits shall be listed "at such sum as the person listing them believes will be received or can be collected; and annuities, at the value which the person listing believes them to be worth in money."<sup>763</sup>

The following section, based upon the law of 1847, providing for the deduction of just debts stipulates that "in making up the amount of money and credits which any person is required to list, he will be entitled to deduct from their gross amount the amount of all bona fide debts owing by him."<sup>764</sup> All debts not founded on actual consideration or which do not represent real liabilities are not held to be within the intent of this section. Finally, no person is entitled to a deduction on account of any obligation given as a premium to an insurance company, or for certain other purposes therein enumerated.<sup>765</sup>

These provisions are incorporated practically verbatim in the *Revision of 1860*.<sup>766</sup> In 1870 an act was passed to repeal the section relative to the deduction of debts, to provide a substitute therefor, and to prevent fraud in assessments. The new act, however, leaves the former section unchanged save for the addition that "no person shall be entitled to any deduction on account of any indebtedness contracted for the purchase of United States bonds, or other non-taxable property."<sup>767</sup> Substantially in this form the provisions relating to the taxation of moneys and credits and the deduction of just debts therefrom are to be found in the *Code of 1873*.<sup>768</sup>

From 1873 to the present time two facts stand out as of chief importance in an historical review of the tax on moneys and credits: first, that the whole period has been one of constant agitation; and second, that almost nothing in the way of definite reform has been accomplished. It has been



a period of criticism and suggestion, but at no time has a definite workable program been developed. The deduction of just debts from the gross amount of moneys and credits listed, how to encourage reasonable rates of interest, the exemption of mortgages, homestead exemption, and finally the total exemption of all moneys and credits have been presented from time to time and more or less carefully considered.

In 1874 a bill was introduced in the Senate relating to the exemption of property from taxation, amending section 814 of the Code by striking out the words "amount of money and credits" and inserting in lieu thereof the words "aggregate value of personal property". Senator A. Converse explained that the amendment was to protect the farmer as well as the banker. In his judgment "exemptions should either be expunged altogether or made universal in their application".<sup>769</sup> In other words, if deductions for just debts are to be made from the "amount of money and credits", no reason, in his opinion, existed why similar deductions should not be made from the "aggregate value of personal property". Senator J. P. West offered an amendment to repeal the whole section relating to the deduction of debts. Senator G. R. Willett was opposed to both the amendment and the bill itself. On being put to a vote, the amendment was lost and the bill was also defeated.<sup>770</sup>

In 1880 the whole subject of credit taxation and the deduction of debts was again thoroughly debated in the General Assembly. A number of bills were introduced, one of which by Senator Pliny Nichols was entitled, "An Act to encourage reasonable rates of interest".<sup>771</sup> This bill provided that all mortgages bearing a rate of interest not to exceed six per cent per annum should be exempt from taxation. In order to make the measure effective, the following interesting section was added: "The object of this act being to secure reasonable rates of interest to the

mortgagor, no device whatever shall be allowed to defeat the true intent of this act; but all commissions, collection fees, or other considerations paid in advance, or otherwise, over and above the stipulated maximum rate of interest, as herein contemplated, shall be construed as so much paid on the principal or body of the mortgage, contemplated in this act."<sup>72</sup> Although the bill was not passed, the discussion relative thereto is indicative of the state of public opinion and the general dissatisfaction with the revenue system at that time. The point was made again and again that to tax real estate, and at the same time to tax the mortgage that derived its value from such real estate, is a form of double taxation which the laws of the State should not permit. It was also held that the law governing the deduction of debts was grossly unjust to the farming class. The thought of the time on these and closely allied questions is well stated in the following letter to the *Iowa State Register* from Pliny Nichols, author of the bill under consideration:—

*Ed. Register:*—Evidently the only equitable rule is to tax the citizen according to his ability to pay. But how to do this even approximately is a problem that the best minds in the country are trying to solve, but which, as far as Iowa, at least, is concerned, has not as yet had a satisfactory solution.

For instance, if Jones has five thousand dollars deposited in bank we tax him on that amount, but do not tax the bank on that deposit, as that would be taxing the same money twice, [.] But if Jones loans Smith five thousand dollars and Smith invests it in real estate or any other property save credits, we would in such case tax Jones on Smith's note for five thousand, and Smith also for the same sum, on the property in which the money was invested. This, of course, would be taxing the same money twice, and would result in great injustice to Smith, in this that he is paying Jones interest at the rate of 8 per cent per annum on the money invested in the property taxed; and as such property does not on an average yield a net revenue of 8 per cent, it is beyond his



ability to pay taxes and interest too, on the same property. Equity would indicate that Jones should pay taxes on Smith's note, and that Smith should have an offset or exemption to that amount; and the only excuse for taxing Smith on the property for which he is in debt is that the State must have something to tie to to raise the necessary revenue to run the Government.

Now it is thought by many that the most feasible way to obviate double taxation would be to consider the mortgagor and mortgagee joint owners for the purposes of taxation. But as the mortgagee is, in most cases, a non-resident of the State, it is feared by some that the adoption of such a policy would have a tendency to drive capital from the State, and hence make money scarce and consequently dear, resulting in greater injury to the borrower than taxing him on his debts. Then, too, there is said to be a decision of the Supreme Court that stands in the way of this plan of relief.

Such being the situation, perhaps as good a thing as can be done at present, looking to a relief to the debtor for the injustice done him by taxing his debts, is couched in House file No. 493. This bill provides that the citizen tax payer may deduct from the gross amount of his assessable property all mortgages, notes and credits, which run for six months or more, and on which the rate of interest does not exceed six per cent. per annum. This will virtually require the creditor to pay taxes on his credits, in the way of reduced interest to the borrower before he can avail himself of the benefits of the act, and would be, to the borrower, a virtual offset, equal to the amount of his debts.

United States notes are taken at a low rate of interest because of their exemption from taxation. Many citizens prefer to loan money at a low rate of interest and be exempt from the uncertainties and perplexities of taxation, to loaning at a high rate and be subject to these drawbacks. Now this bill enacted into a law would give the debtor a chance to go into the market with a non-taxable security, and refund his indebtedness at a rate of interest that would bring it within his ability to pay taxes on the property for which he is in debt.

This would be only just to the debtor as he is held for the taxes on the property which the non-taxable security represents. It would be but just to the creditor, as he would have to pay taxes, in



the way of reduced interest, to the debtor. And it would be just to the State, as it collects taxes of the debtor on the property represented by the credit, and if it got anything more it would be by double taxation, which in the end comes off of the debtor and results in the sacrifice of the citizen.

It is thought, moreover, that this plan if adopted, would invite foreign capital into the State, and result in a material reduction of the prevailing rates of interest, so that merchants, manufacturers, and farmers would be able to pay interest and taxes on the capital they are under the necessity of hiring, and have a reasonable profit left as a reward for their labor.<sup>773</sup>

Other letters and editorials appeared in the newspapers of the day. One writer suggested when dealing with the subject of mortgage taxation that "an ounce of practical knowledge is worth more than a car load of book theory untried."<sup>774</sup>

While the bill to exempt mortgages from taxation under certain conditions was defeated, the agitation along this line did result in the enactment of a law to relieve manufacturers from double taxation. Under the provisions of this act, manufacturing corporations organized for pecuniary profit, were required to list their real estate, personal property, and moneys and credits in the same manner as individuals, all machinery being regarded as real estate. Owners of capital stock in such manufacturing corporations, thus listing their property, were exempt from assessment and taxation.<sup>775</sup>

The Auditor of State in his report for 1881 devotes considerable space to the subject of assessment — especially the assessment of personal property in the form of moneys and credits. Assessors and boards of supervisors, he says, ignore the plain provisions of the law, the result being that a vast amount of personal property escapes its just share of the tax burden. If present laws are not strong enough to search out the hidden treasures of wealth in the form of

bonds, mortgages, and securities of various kinds, the legislature should enact one.<sup>776</sup> Such was the opinion of the Auditor who held that the revenue laws imposed double taxation upon the holder of real estate and in many cases no taxation on the owners of moneys and credits. The reader will be interested in the following part of his report: "The theory of equal taxation of all property, not exempt by law, is one of the pillars of a republican form of government. Under our present law equality does not exist. To illustrate: A buys real estate and gives a mortgage upon the purchased premises to secure deferred payments, or borrows money and mortgages his home to secure the payment; he is not permitted to deduct his indebtedness from his assessment. B loans money to A and when the assessor attempts to list his 'moneys and credits' for taxation, the law permits him to deduct what he owes and pay on the balance, if any. B may thus deduct debts owing for the purchase of real estate from the amount loaned to others, while A, who does not have 'moneys and credits' must pay upon the full amount of his real estate the same as if entirely paid for. Again, the provisions of the law are such that while A pays his full proportion of tax upon the real estate, B, who holds the mortgage given by A, must pay upon it as 'moneys and credits' provided he has no debts with which to offset the amount. In the one illustration there is double taxation, and in the other none at all. In either case equal taxation does not obtain. I believe the law should be so amended as to remedy the contradiction between the doctrine of equal taxation and the fact as practiced under the law".<sup>777</sup>

Nothing, however, was accomplished, and the agitation continued. In 1884 Senator F. A. Duncan introduced a bill, having for its object the relief of real estate from double taxation and the taxation of mortgages to a certain extent as real estate.<sup>778</sup> The nature and purpose of this im-

portant bill is clearly explained in an editorial on "Double Taxation" appearing in the *Iowa State Register*.

"The bill provides", writes the editor, "that when any person has an interest in real estate as a holder of a mortgage, hereafter made or hereafter extended, or not yet due and now subsisting, given to secure the payment of money, the amount of which is fixed and certain, and which has been duly recorded, the amount of said person's interests as mortgagee shall be assessed to said mortgagee as real estate in the city, town or township where the land lies, and the mortgagor shall be assessed only for the value of said real estate after deducting the mortgagee's interests therein. Mortgagors and mortgagees before referred to are for the purpose of taxation to be deemed joint owners until the first or any other mortgagee acquires possession by foreclosure and sale; who is then to be deemed sole owner: any mortgagee other than the first, or any other in possession, as aforesaid, is to be deemed joint owner with prior or other mortgagees. All taxes assessed under the proposed act are to be a lien upon the land and improvements thereon. A section is added providing that when any part of the taxes duly assessed upon real estate under the provisions of the proposed act shall remain unpaid on the first day of February next ensuing after the same has been assessed, either party may pay the same; and, if paid by any mortgagee, the mortgagee so paying to take from the treasurer the ordinary tax receipt by law required to be given to taxpayers, with a note of reference on the receipt and on the tax record to the mortgaged deed; such sums so paid for taxes other than those assessed to himself, with costs, penalty and interest, to be added to and constitute a part of the principal sum of the mortgage; and in such case the payment of such taxes, with the said note of reference on the said tax record, is to be notice to all persons of the sums so paid other than those assessed to himself and of the lien thus created upon



the estate. When taxes so assessed to any mortgagee have been paid by the mortgagor, or those claiming under him, to either the treasurer or mortgagee paying the same, such mortgagor is to have the right to deduct the sum so paid, with the costs, penalty, and interest thereon, from the amount of the mortgage due the mortgagee to whom said taxes were assessed.

“Loans on mortgage of real estate within this State assessed under the proposed act as real estate are to be exempt from taxation as personal property to the amount they are assessed as realty. Mortgagors are prohibited from deducting from their moneys and credits required to be listed, the amount of any mortgage debt executed by them except to the extent that such mortgages exceed the value of the real estate mortgaged.

“Any mortgagee’s real estate interest contemplated by the bill is not to be changed by the State Board of Equalization. It is to be made the duty of the Assessor under proper penalties to carefully inquire of each tax payer whether he has a mortgagee’s real estate interest as defined in the bill in any real estate, or whether he is a mortgagor.

“City, town and township [p] boards of equalization are authorized to correct any erroneous or irregular assessments under the proposed law. To carry out the provisions of the bill assessors are required to make the inquiries, above provided, annually.

“The purpose of the bill is obvious, and is explained by the title. The injustice in the present system is apparent in cases where real estate is mortgaged for the purchase price, and while the mortgage is assessed to the mortgagee as moneys and credits, the land is also assessed to the mortgagor at its full value.”<sup>779</sup>

A careful reading of this editorial reveals a definite purpose and a comprehensive plan on the part of the author

of the bill. Mortgages are to be taxed as real estate in the city, town or township where the land is located. The mortgagor is to be taxed on the amount of the real estate after deducting the mortgagee's interest therein. In other words the bill recognizes the economic doctrine of joint ownership in the real estate and endeavors to construct a revenue system on this basis. The same general plan is now followed by Wisconsin and California.<sup>780</sup>

With the defeat of this bill the struggle was resumed, but in another form. Two years later a bill was introduced in the House, which provided for inserting the words "assessable property" in lieu of the words "amount of money or credits" in section 814 of the Code. This was a radical proposal and meant that the amount of one's just debts could be deducted from all forms of his assessable property.

Mr. G. W. Schee went to the other extreme and offered an amendment repealing Section 814 of the Code. This, he said, would prevent any deductions and thus place "moneyed men on the same footing as farmers".<sup>781</sup> Both plans, however, were rejected by the General Assembly.

In the Senate a different plan of reform was suggested. Senator R. M. Hutchinson introduced a bill, the primary object of which was to correct the unequal taxation of different classes of property and secure a more accurate, definite, and specific manner of securing the listing of moneys and credits.<sup>782</sup> His program of reform included, first, the improvement of the general machinery of assessment, and second, the equalization of personal property in the same manner as real estate. One is interested in, if not amused by, the following hopeful estimate of the bill: — "Thus the State Board of Equalization will have the right, and it is made their duty to see that property, real and personal, is assessed at a uniform valuation throughout the State. Should this bill pass it will gain an assessment of \$60,000,000 of property now escaping taxation, and will make a less

burden of taxation on every taxpayer in Iowa. It will especially protect the honest man, and go a great way toward reaching the property of the man who does not now honestly give in his property''.<sup>783</sup>

Little was accomplished during the following two sessions of the General Assembly. A few bills were introduced and some sporadic discussions continued. About 1890, however, when times became hard and money scarce, the whole question of tax reform was again brought to the front. The immediate result was the appointment of a Revenue Commission in 1892.<sup>784</sup> In the report filed by this Commission under date of July 1, 1893, much space is given to the subject of mortgage taxation. Among the first suggestions made to the Commission was that of taxing the mortgage as an interest in real estate and making a corresponding exemption in favor of the mortgagor. The members of the Commission, however, were unanimous in their opinion that such a measure would be "unwise and illogical, and moreover unsatisfactory to those urging the change and damaging to the interests whose benefit is contemplated thereby''.<sup>785</sup>

A number of reasons are given to sustain this view. It is held, first, that the assessment of all realty forms an essentially just mode of taxation, and that it is unwise to withdraw any part of it from the tax list merely because said portion secures an indebtedness. The argument is also advanced that the proposed plan would entirely exempt real estate encumbered by mortgages dated prior to the passage of the bill, for the reason that any law taxing mortgages already made and recorded would be an impairment of the obligation of contracts and would therefore be unconstitutional and void. In this connection the Commission says that "the effect, therefore, of adopting the measure would, as to existing contracts, be simply to release mortgaged realty, to the extent of incumbrance, from all taxation''.<sup>786</sup>



Furthermore it is alleged that in the case of contracts made after the adoption of such a measure, the effect would be to compel borrowers to pay higher rates of interest. Thus, in the case of either past or future contracts the burdened holders of property would receive no relief. Again the argument is advanced that no special reason exists why the foreign holder of Iowa mortgages should be taxed and the farmer exempted, any more than the wholesale merchant in the East should be taxed for the amount due him from the local merchant, and a corresponding exemption made to such local merchant. The claim is also made that such a measure "would open the door to the creation of all manner of contingent if not fictitious indebtedness".<sup>787</sup> And finally, it is contended that the man doing business largely upon borrowed capital, if allowed to deduct his indebtedness, would have a decided advantage, in the matter of taxation, over his competitor doing business upon his own capital. The idea of extending the principle of deductions did not appeal to the commissioners. In fact, they recommended the plan "of prohibiting any deduction whatever on account of indebtedness."<sup>788</sup>

The bill prepared by the Commission contains elaborate provisions relative to the taxation of moneys and credits. The definition of the term credit remains much the same and the plan of listing is outlined much as in former acts. It is provided that money and ordinary credit instruments shall be listed at the domicile of the owner, and all other personal property where it is kept the greater portion of the time. Certain credits are to be assessed at "full face value" and other forms at "their actual cash value", the person making the list being required to file a sworn statement.

The report of the Commission, as already noted, was rejected by the General Assembly.<sup>789</sup> The arguments therein presented relative to the taxation of moneys and credits

as above outlined are for the most part crude and superficial. They might better be called a series of popular opinions or impressions rather than arguments. The careful reader does not need to be reminded that the law as it now stands, and as it was then in force, presumes that credits shall be taxed the same as other property. The fact that they evade taxation is not pertinent to the particular questions considered by the Commission. They are supposed to bear their just share of the public burdens and that is all that is contemplated by the plan of taxing mortgages as an interest in real estate. On the one hand, the Commission tacitly assumes that credits evade taxation, and that if you tax them certain dire consequences are sure to follow; while on the other hand, the taxation of credits is recommended and in fact incorporated in the bill, and in addition to this all deductions for debts are to be prohibited.<sup>790</sup> The reader may be able to harmonize these inconsistencies.

The truth is that two possible results may follow a system of taxing mortgages as an interest in real estate: first, the tax may be assumed and paid by the mortgagor, in which case the mortgagee is entirely exempt; and second, the tax may be paid by the mortgagee as contemplated by both the spirit and the letter of Iowa laws. In the former case interest rates would tend to be reduced, and in the latter we would merely be enforcing existing laws in the case of securities held within the State. From both standpoints the reasoning of the Commission is careless, and therefore its conclusions are almost entirely void of scientific foundation.<sup>791</sup>

In 1896 the question of how to place moneys and credits on the assessment roll was again taken up for consideration. It was the same old story told in much the same way. Auditor of State C. G. McCarthy, who in 1893 had said that the recommendations of the Tax Commission relating to the assessment of real estate and personal property at its true

cash value are "valuable, timely, just and wise",<sup>792</sup> writes in 1895 concerning the action of the General Assembly that he is "inclined to the opinion that future generations will continue to ask why the great state of Iowa has such a small valuation, and such an enforced high rate of taxation, and the stranger within our borders will continue to compare us unfavorably with other states that are not the peers of our own state."<sup>793</sup> Nothing, however, was accomplished and when the Twenty-sixth General Assembly met in special session to enact the *Code of 1897* the fundamental outline of the system of taxing moneys and credits was left substantially the same.

The definition of the term "credits" and the method of their assessment have changed only from a verbal standpoint since 1851 — and, in fact, since the Territorial period of our government. Regarding the assessment of credits, the *Code of 1851*, the *Revision of 1860*, and *Code of 1873* are literally the same. Certain credits are to be assessed at their "cash value", others "at such sum as the person listing them believes will be received or can be collected thereon", and annuities at their worth in money.<sup>794</sup> In the *Code of 1897* the term "actual value" appears with the additional proviso, that the assessment shall be made at "twenty-five per cent. of such actual value".<sup>795</sup> The provision regarding the deduction of debts is also reincorporated with but slight verbal changes.<sup>796</sup> The section defining the place of listing is perhaps more carefully worded. Moneys and credits are to be assessed at the domicile of the owner, "except as otherwise provided", and other personal property where it is kept "the greater part of the year preceding the first of January".<sup>797</sup> We may truthfully conclude, however, that half a century of time has brought little or no real changes in our system of taxing the various forms of credit instruments.

When the General Assembly met in 1898 dissatisfaction



had increased. Demands for reform became more urgent. A new crop of bills soon appeared. Several distinct plans were offered; but again, as in former years, no one definite program of reform was carefully worked out. Mr. F. Hinkson introduced a bill to repeal the section authorizing the deduction of debts from moneys and credits otherwise subject to taxation.<sup>798</sup> Mr. S. B. Powers introduced a bill exactly the opposite in character,<sup>799</sup> providing that the mortgagor or lessor be permitted to deduct from the actual value of their property the gross amount of just debts in the same manner and under the same restrictions as persons listing ordinary moneys or credits. This bill further provided that "All mortgages on real estate shall be listed by the mortgagor in the manner provided by section 1316 of the code for listing property belonging to another, but shall be taxed to the mortgagee as an interest in real estate".<sup>800</sup> Finally, it is stipulated that the tax, if paid by the mortgagor, shall apply in liquidation of the debt. In other words, two programs opposite in character, were advocated for the realization of the same reform.

Other proposals were made; but the bill which proved to be the storm center of the session was introduced by Mr. Penick.<sup>801</sup> This bill provided that the full amount of bona fide mortgages and other liens should be deducted from the assessed value of all property "except the property of corporations." In this bill provision is also made that the lessor or mortgagor may pay the tax and apply the same in liquidation of the debt.<sup>802</sup>

Space will not permit a detailed presentation of the debates on this bill. They consisted for the most part of arguments already noted. The chief purpose of the measure was to tax the foreign lender of money secured largely by mortgages on Iowa farm property. Mr. Penick was met at the very beginning of the discussion with the claim that similar bills had been introduced again and again and as

many times defeated.<sup>803</sup> Many members who spoke in opposition conceded that the principles embodied in the bill were equitable, and that legislation along the lines suggested was desirable, but they thought that the methods therein outlined were open to criticism. In closing the debate in favor of the minority report which had been filed by the committee, the author of the measure admitted that it might not be perfect in detail but claimed that it would produce a more just and equitable system of taxation.<sup>804</sup>

The bill was sent to the Committee on Judiciary for reconsideration,<sup>805</sup> and a substitute reported with the recommendation that the same do pass.<sup>806</sup> An amendment to limit the assessment of mortgages to twenty-five per cent of their value rather than at their actual value was made. Other amendments were presented. At this time the whole question of the deduction of debts provided for in the Hinkson bill<sup>807</sup> became involved in the controversy. It soon became impossible to consider any tax bill on its merits. The House refused to pass the bill which provided for the deduction of just debts for personal property other than moneys and credits, because it would reduce the revenue; and yet the same House refused to repeal the section granting similar deductions from money and credits which it was claimed would greatly increase the revenue.<sup>808</sup> To Mr. Hinkson and other members this seemed a grave injustice, and much feeling was shown in the debates.<sup>809</sup>

In this medley of varied ideas and conflicting policies, the Penick mortgage tax bill was assailed by numerous interests and factions. It was dubbed "populistic", and regret was expressed in some quarters that so radical and extreme a measure had even been introduced in an Iowa legislature. Under the caption of "A Populistic Mortgage Bill" the *Iowa State Register* objected (1) that you cannot reach the mortgage held outside of the state for taxation in the state; (2) that if you do reach them the amount

of the tax will be added to the interest rate; (3) that if the Penick bill is passed the average rate of interest may go back to seven per cent instead of going down to five per cent as is now the tendency; (4) that it would promote the mortgaging of property to escape taxation and thus injure the reputation of the State for thrift; and (5) that mortgages held by parties in Iowa are already taxable and that there are constitutional difficulties in the way of taxing mortgages held outside of the State.<sup>810</sup>

These objections may be briefly paraphrased by saying that for all practical purposes mortgages may be considered as escaping taxation; and if you devise a plan actually to impose fiscal burdens upon them, the tax will be added to the interest rate. It would be difficult to make a stronger statement in favor of the complete exemption of mortgages from taxation.

In the Senate a similar contest was being waged. Senator J. R. Gorrell introduced a bill providing that mortgages on real estate be deducted from the value of the real estate and that the tax on mortgages be paid by the owner of such securities. He opposed the deduction of debts from moneys and credits, unless a similar deduction was made from real estate. "If you will open the code at page 460," he argued, "you will note on the left hand section 1311, and on the right, section 1312. Both sections relate to the listing and assessment of property for taxation. It would be difficult to conceive of a more glaring instance of downright injustice than is here presented. For the purpose of bringing out the manifest iniquity of these provisions of law, I will assemble a group of three persons — neighbors. One a tax assessor, the second a money loaner and the third a brawny young farmer. The assessor has entered upon his official duties. The capitalist is asked to list his moneys and credits. He does so, but remarks that he is in good faith indebted in a sum equal to one-half of the total he



has named. The assessor at once calls his attention to section 1311, which was enacted expressly for his protection. He informs the gentleman that the state will not oppress him by compelling him to pay taxes upon his indebtedness. That it would be unjust and a manifest bar to enterprise. The assessor kindly reads the section in the hearing of the two gentlemen. The deduction is made. In turn the sturdy young farmer is requested to list his property. He repeats to the assessor the meets and bounds of his eighty acre farm. He tells him that he recently bought it, paid half down, and that there is a mortgage upon it for half its value. The assessor smiles, shakes his head and says nothing. The young man asks if there is not a section of law which protects him as completely as section 1311 did his neighbor, the banker. The obliging official then reads to him section 1312, which grimly provides that real estate shall be listed by and taxed to the mortgagor. 'Can I not deduct the amount of the mortgage?' asks the young man. 'No, there are no deductions in your case.' 'Why am I discriminated against?' exclaims the young farmer. The assessor replies, 'I do not know, unless it is that the gentlemen who own moneys and credits have been looking after their own interests while you men who till the soil have not been so doing.' '811

Such was the history of tax reform in the strenuous session of 1898. It would be difficult to find a scheme that was not advocated by some one at that time. The taxation of mortgages as an interest in real estate, the repeal of the section granting the deduction of just debts from moneys and credits, the opposite policy of extending the principle of deduction to practically all classes of assessable property, these and numerous other plans were presented and considered. The Penick bill, after meeting all the obstacles of parliamentary usage and committee etiquette, was finally passed in the House,<sup>812</sup> only to be defeated in the

Senate at the close of the session.<sup>813</sup> After three months of almost constant debate, the General Assembly adjourned with little accomplished, leaving the State of Iowa practically as far removed as before from the goal of real tax reform.

During the decade following 1898 the principal thing accomplished along the line of taxing moneys and credits was the enactment of the tax ferret law in 1900. This law forms the subject matter of a subsequent chapter and will there be treated as a part of the general topic now under consideration. Such questions as primary elections, two cent fares, anti-pass legislation, and the tariff have engaged the public mind and postponed much needed reforms in the revenue system. The last General Assembly (1909), however, resumed serious consideration of the problem of taxing moneys and credits. Governor Garst in his message of January, 1909, pointed out that "a number of states have enacted laws requiring mortgages to pay a small recording fee in lieu of all other taxes, with the result that while they have received substantially as much revenue, the burdens fall more equally upon the holders of this class of property. It is well known that mortgages of all kinds and character pay but a ludicrously small tax, and the tax that is paid is generally from those who should not have the burden placed upon them. . . . I would recommend", he said, "that you place upon the statute books a law requiring that all mortgages recorded shall pay a fee of one half of one per cent in excess of the regular recording fee as now provided".<sup>814</sup>

Numerous bills were introduced. One by Mr. I. T. Dabney provided for the repeal of section 1311 of the Code relating to the deduction of debts from the assessment of moneys and credits.<sup>815</sup> A second bill, introduced by Mr. E. J. Sankey, was quite the opposite in character, providing for the deduction of real estate mortgages from the as-

sessed cash value of such real estate for the purpose of taxation.<sup>816</sup> The purpose of this bill was to require owners of real estate to pay taxes on all their equity in said real estate, and no more. A third and more important bill was presented by Mr. G. C. Calkins.<sup>817</sup> It provided for taxing mortgages as an interest in real estate, it being stipulated that the "combined value of the mortgagee and mortgagor shall not exceed the just valuation which should be placed upon the mortgaged real estate if unincumbered".<sup>818</sup> In case the tax was paid by the mortgagor, the same was to apply in liquidation of the debt. Although this bill received but scant attention during the session, it possessed much merit and is worthy of careful study.

Two other bills were introduced in the House, one by Mr. W. P. Dawson,<sup>819</sup> and the other by Mr. G. E. Ward.<sup>820</sup> The former provided that "a mortgage, deed of trust, contract, bill of sale, or other obligation, whereby land, real estate or real property situated in no more than one (1) county in this State, is made security for the payment of a debt, together with such debt shall, for the purpose of taxation, be deemed and treated as land, real estate or real property." The bill further stipulated that said securities shall be taxed to the owners thereof "in the county, or State, in which the land, real estate or real property affected by such security is situated". In other words, credits are to be taxed, not at the domicile of the owner, but at the place where the real estate is located, a feature of the Dawson bill already familiar to the reader. In fact the bills thus far outlined represent ideas about credit taxation which had been before the public almost constantly from 1875 to 1900 and which even date back to the Territorial period.

The bill, however, introduced in the House by G. E. Ward and in the Senate by R. Hunter (both of Woodbury County) and framed along the lines recommended by Governor Garst was a slight departure from ancient methods of pro-



cedure. It provided for a recording fee of fifty cents "upon each hundred dollars or a major fraction thereof, of the principal debt or obligation which is, or in any contingency may be, secured by any mortgage of real property situated within the State, which mortgage is recorded or registered on or after April 30, 1909." Mortgages paying such fee were to be exempt from all other taxes. Certain conditions and exceptions, however, are stipulated in the bill.<sup>821</sup>

In the House of Representatives Mr. Ward made a long and able struggle in behalf of his measure. The chief arguments advanced in favor of the recording fee system were: first, that large amounts of capital now leaving the State would remain and be invested; second, that interest rates would be materially reduced; and finally, that as much and perhaps more revenue would be raised than is now secured under existing laws. It was further argued with much force that under the present system only a small portion of the mortgages are actually taxed; that the proposed measure would remedy the double taxation existing under the present law; and that the system now in vogue places a premium on fraud and perjury. Reference was made to the success of the system in Minnesota and especially in New York, where revenue had materially increased and interest rates decreased.

The leading arguments used against the bill were: first, that it would mean the establishment of a dual system of taxing credits, a lower rate being levied on mortgages; second, that it was a recognized step toward the complete exemption of credits from taxation; and third, that the men holding credits, the money lenders, are the best able to bear their share of the public burdens, an argument always used with telling effect.

The Iowa Tax Ferrets Association opposed Mr. Ward's bill, and in fact prepared a pamphlet in which they declared that "we frankly admit that the proposed bill would elimi-

nate the tax ferret, and that members of this association have a personal interest in the proposed legislation; BUT FOR EVERY FIFTEEN CENTS OF INTEREST THE TAX FERRET HAS IN THE PROPOSED BILL, THE MONEY LOANER HAS EIGHTY-FIVE CENTS, WHICH EIGHTY-FIVE CENTS BELONGS TO THE PUBLIC REVENUES.”<sup>822</sup> The argument is used that the proposed bill would benefit only a small per cent of money lenders, while heavier burdens would be imposed on the “ninety-five per cent class of tax payers”. Other objections were pointed out — especially the claim that the bill would establish a dual system of credit taxation.

It is further alleged that under the proposed bill revenue would materially decrease as compared with the present system, and elaborate tables of statistics are presented in behalf of this contention. Finally, data was prepared for a number of counties showing the increased rate on other taxable property that would be necessary in order to make up for loss of revenue under the mortgage registration plan.<sup>823</sup> After much delay and in the presence of great opposition the bill was reported out of the committee with amendments.<sup>824</sup> It was ably supported on the floor, and although defeated by a fairly decisive vote,<sup>825</sup> it developed enough strength to indicate the urgent demand for tax reform and the fact that this demand is becoming more coherent and definite. Much credit is due Mr. G. E. Ward for the ability and tireless industry which he manifested in behalf of a mortgage registry tax.

From a judicial standpoint the taxation of moneys and credits presents many interesting and complicated problems. Any detailed consideration, however, of the numerous legal questions connected with the taxation of credits, would be entirely foreign to the purpose of this monograph. Some of the more important points have already been noted in the study of the taxation of banks and insurance companies.<sup>826</sup> In this connection brief reference will be made

to a few leading cases along the following lines: first, the meaning and scope of the term "credits"; second, the "situs" of the same for purposes of assessment and taxation; and finally, the deduction of just debts from the amount of moneys and credits otherwise listed for purposes of taxation.

Regarding the scope and meaning of the term itself, a number of decisions have upheld the view that the assets of a life insurance company, consisting of notes, bonds, loans, cash, and the like, should be subject to taxation as moneys and credits.<sup>827</sup> The same has also been held in the case of a fire insurance company. In the *Hawkeye Insurance Company vs. Board of Equalization* the Supreme Court followed the reasoning of the former case.<sup>828</sup> The term "credits" also includes shares of corporate stock — a fact which has been established by the Supreme Court of the United States<sup>829</sup> and also by the courts of this State.<sup>830</sup> Finally, contracts for the conveyance of land which create a bona fide debt, deferred payments due on a contract which is mutually obligatory, and ordinary real estate mortgages are considered as credit instruments and liable to taxation as such.<sup>831</sup> Numerous other cases might be mentioned defining in more detail the scope and meaning of the term under consideration.

As to the "situs" of moneys and credits for purposes of taxation the courts have almost universally held that they should be taxed at the domicile of the owner and not elsewhere.<sup>832</sup> A note is subject to taxation where the owner resides, although it may be deposited in another State for safe keeping.<sup>833</sup> Nor is the doctrine of domicile affected by the mere intent to change a residence.<sup>834</sup>

In conformity with this reasoning it was held very early in the history of the State that mortgages, being personal property listed by and assessed to the mortgagee, could not be taxed in Iowa if held by non-residents of the State.



Judge Baldwin, rendering the opinion of the Supreme Court in the *City of Davenport et al vs. Mississippi and Missouri Railroad Co.*, says, concerning mortgages held by non-residents, that "it is agreed by the parties that the owners and holders of the mortgages are non-residents of the State. If so, and the property in the mortgage attaches to the person of the owner, it follows, that these mortgages are not property within the State, and if not, they are not the subject of taxation."<sup>835</sup>

Writing on this same point, Judge Cooley says that "if a person is domiciled within the state, his personal property in contemplation of law has its *situs* there also, and he may be taxed in respect of it at the place of his domicile."<sup>836</sup> Another leading writer on the law of taxation points out that "it is one of the anomalies in the current legislation that mortgages of residents are taxed, while those of non residents are not. . . . A mortgage is taxed in the town where the owner resides. The only mortgages assessed are those owned by residents of the county or controlled by an agent of a non resident. Assessors should be instructed not to list mortgages held by non residents, except when controlled by actual residents."<sup>837</sup> One should keep this fact in mind when passing judgment on the proper methods of mortgage taxation.

Perhaps the most fruitful source of litigation in the complicated field of credit taxation remains to be noted, namely, that section of the Code which permits the deduction of bona fide debts from the amount of moneys and credits otherwise listed for taxation.<sup>838</sup> This section has not only made possible an endless evasion of taxes, but it has proved to be an almost constant subject for adjudication. In an early case the court held that allowing a deduction of debts in the assessment of moneys and credits was not in conflict with the constitutional prohibition against local and special laws for the assessment and col-

lection of taxes.<sup>839</sup> It has been held also that a taxpayer may decline to exercise the right of having his indebtedness deducted, and, although this is done to avoid a showing of insolvency, his creditors cannot complain of the tax thus assessed.<sup>840</sup> The taxpayer is not required to produce notes as an evidence of indebtedness. The mere statement of the debtor, confirmed by his creditor, may be taken as sufficient evidence that a bona fide debt exists.<sup>841</sup> Delinquent taxes of a previous year are not to be deducted,<sup>842</sup> but the mere fact that a taxpayer, in returning moneys and credits for assessment, specifies liabilities which should be deducted does not prevent him from producing other liabilities in the event of proceedings to enforce an assessment of moneys and credits omitted from taxation.<sup>843</sup>

In considering cases along this line the courts have always endeavored to distinguish between fictitious indebtedness and those debts which are based on actual considerations. To do this is frequently difficult, in fact at times almost impossible. Cases frequently arise where a taxpayer is acting as an agent for a non-resident. If the agent loans money for a non-resident and gives notes whereby he becomes personally liable as borrower for the money in his hands for investment, the courts have held that in the absence of fraud, he is not subject to assessment for such property, his money on hand being more than offset by liabilities. If the obligations thus executed are found to be fictitious, no deduction is permitted; but, on the other hand, if notes thus given represent actual consideration, deductions may be made regardless of the motives which may have influenced said agent. It is needless to say that these are often difficult questions to determine.

In the important case of *Hutchison vs. Board of Equalization*, Judge Adams, in rendering the opinion of the Court, says that "the indebtedness for which the plaintiff claims a deduction arose by reason of promissory notes given to

Henry and Deborah Hutchison, of England. The defendant claims that this indebtedness is a fiction, and that the real fact is that, while he may have received money from these persons, to whom he says he was indebted, he received it as their agent, and does not owe them the money. But in our opinion the evidence shows otherwise. It may be that he had theretofore received their money as agent, and perhaps the identical money in question, but he might in good faith borrow it, and we see nothing in the evidence which shows that the claimed indebtedness is not a real one.”<sup>844</sup>

A large number of cases of the class under consideration have arisen from time to time in connection with banks and insurance companies. These cases have already been discussed<sup>845</sup> and so it will be necessary only to refer to them in this chapter. The moneys and credits of a corporation from which its liabilities are to be deducted do not include real estate and other property for which taxation is specifically provided.<sup>846</sup> Stock in national banks is held to be credits from which the debts of the holder may be deducted for the purpose of assessment.<sup>847</sup> Nor is the law granting deductions to stock holders in national banks unconstitutional, because stock in a State bank is assessed to the bank so as to render similar deductions impracticable.<sup>848</sup> An analysis of court decisions might be continued almost indefinitely. In fact the taxation of moneys and credits has furnished a subject of almost constant debate among our legislators and of frequent litigation before the courts. Enough has been said to enable the reader to understand the problem in its main outlines. What these outlines were may be briefly reviewed.

Moneys and credits from the very beginning of the Territorial period have been included in the general property tax. Credits were specifically mentioned in a law passed in 1844. Under this act they were to be taxed “at their true



value''. In 1847 provision was formally made for the deduction of bona fide debts from the amount of one's moneys and credits listed for taxation. In the *Code of 1851* the term "credit" is carefully defined, and a complete list of moneys and credits liable to taxation is presented. Certain credits are to be listed "at their current value and rate", others at such sum as "can be collected", and still others at their "worth in money". The law thus outlined in 1851 has remained almost an impregnable fortress against constant and at times determined opposition. From time to time the legislative incubator has hatched a prolific crop of bills, representing as many conflicting policies, the resultant of which as largely determined by the "Third House", has always been a noisy but harmless product. What is always needed, and must be had if anything is to be accomplished, is a definite program of rational reform.

Reduced to its lowest terms the system outlined in 1851 has been assailed from two leading standpoints: first, the deduction of just debts from the amount of moneys and credits listed for taxation; and second, the proper method of taxing real estate mortgages. Regarding the former the following distinct plans have been advanced: first, the repeal of the section granting deductions of debts, the best example of which was the recommendation of the Tax Commission in 1893; second, the opposite policy of granting such deductions from all assessed property, which in practice would leave the State and local treasuries shipwrecked on the island of nowhere; third, the deduction of debts from the aggregate amount of personal property, a middle of the road program; and finally, the deduction of debts from all forms of assessed property except that of corporations as outlined in the Penick bill which was aimed largely at foreign investors.

With so many conflicting programs of reform, for the most part visionary and frequently the result of selfish

local interests, it should occasion no surprise that our law-makers have not passed beyond the stage of parliamentary debate and committee log rolling. The logical product of conflicting forces in politics, the same as in mathematics, is frequently negation.

As to the taxation of real estate mortgages three distinct and separate policies have been noted: first, that of complete exemption; second, taxation as an interest in real estate; and finally, the registry tax of Minnesota and New York as outlined in the Ward bill. A number of modifications of the second plan have been proposed, especially the arbitrary regulation of interest rates — a visionary and impossible scheme. In a word, it must be apparent that the subject of the taxation of moneys and credits has been considered on the installment plan: it has been too frequently weighed in the balance of selfish local interests rather than of high-minded statemanship. The thing needed is a definite workable program based on a thorough and impartial analysis of the whole Iowa revenue system.

## XV

### THE TAX FERRET SYSTEM

From the foregoing extended examination of the general property tax as such and of the special forms of taxation which the rapid change in our political and industrial life has seemed to render imperative two things must be apparent to the reader: first, the low and grossly unequal assessment of all forms of property; and second, the almost complete failure to reach certain forms of personal property, especially moneys and credits. In the statistical study of the general property tax, reference was made to a later consideration of the taxation of moneys and credits and the presentation of data relative thereto.<sup>849</sup> It is now both logical and necessary to present a brief survey of the last serious effort made by the General Assembly to create an efficient system of administration for the tax on intangible property — namely, the so-called "Tax Ferret System".

In considering this phase of the history of taxation in Iowa it is doubly necessary to approach the subject with a judicial mind. Knowing that the tax ferret has been the storm center of much prejudice and controversy in recent years, the writer has endeavored to examine carefully the evidence on both sides of the question, having no other purpose in mind than the discovery of the truth. Therefore, an effort will be made to supplement the brief narrative with an impartial presentation of the arguments both for and against, in order that the reader may be the better able to form his own judgments concerning this important problem.

At the present time a number of States have tax ferret



laws — Indiana, Ohio, Kentucky, and Oklahoma are among the list. In a number of other States where such laws do not exist the courts have held that special agents may be employed and paid a regular commission for searching out omitted property and placing it on the assessment roll. This, in fact, was the case in Iowa before the enactment of the tax ferret law in 1900.<sup>850</sup> Prior to that date, a number of firms, mostly from Indiana, had been employed by county boards of supervisors to search out property which had evaded taxation. The right of the county to employ such persons and allow them liberal commissions had been upheld by our Supreme Court under section 1374 of the *Code of 1897*, which gives the county treasurer the right to demand the payment of omitted taxes any time within five years after assessment should have been made.<sup>851</sup> In fact this right has been well established by a number of leading decisions.<sup>852</sup> In *Shinn vs. Cunningham*<sup>853</sup> and *Reed vs. Cunningham*<sup>854</sup> the right to employ persons to search out omitted property was not only sustained, but the nature of the contract to do this work was carefully considered. In the former case, the court held that a county board of supervisors may contract with a party to discover taxable property omitted from the assessment roll, and further that the county, in making such a contract, may agree as to the expenses incurred thereby.

It is also held that the tax ferret law passed in 1900, limiting the compensation to fifteen per cent of the tax secured, did not apply to contracts made prior to its enactment. On this point Judge Weaver, who delivered the opinion of the court, wrote these words: "It is said that the compensation agreed to be paid is excessive and unreasonable, and the contract should therefore be declared void in the interest of the public. . . . It may be true that fifty per cent is an excessive compensation for hunting up property escaping taxation by ordinary methods, and col-

lecting the revenue therefrom, but the court cannot presume such to be the fact.”<sup>855</sup> In other words, the right to employ ferrets was not only guaranteed by the *Code of 1897*, but the compensation for such service was recognized to be practically unlimited — even fifty per cent of the amount recovered.

A word should be said regarding the character of the tax ferret work done prior to 1900. Along this line the sources of information are very limited — in fact, almost nil. The writer has been unable to secure written records for reasons that must be obvious, and he has, therefore, been compelled to obtain his information from persons especially interested in taxation matters. Enough has been learned, however, to enable one to form a general idea of the system at that time.

Some of the men engaged in the work were, no doubt, honest and upright and endeavored to perform their duty in a business like manner. A few local men were employed. But for the most part those who secured contracts for this class of work were professional adventurers or “birds of passage” from other States, with no reputation to lose and perhaps one to gain. In many cases they were not placed under bond. In fact, no law required them to give bonds, the matter being entirely in the hands of county boards of supervisors. The commissions paid were in many cases exorbitant, as noted above, and the writer has been informed from a number of sources that it was quite common for tax inquisitors from other States to make their visits, “skim off the cream”, or, perhaps, “come to a mutual understanding” with some professional tax dodger, hurry across the border and later return to a different county, there to repeat the process.

Largely for the purpose of securing responsible men and making the inquisitor work more regular and systematic, a law was passed in 1900 — the so-called tax ferret law —

limiting the compensation to fifteen per cent of the tax recovered, and requiring every person so employed to give a bond of not less than three thousand dollars with sureties to be approved by the board of supervisors. This act was in reality a definition and limitation of powers already outlined in the *Code of 1897*. In no sense did it represent a grant of additional power to county treasurers and boards of supervisors.<sup>856</sup>

Tax ferret work, however, soon proved to be unpopular with certain classes, and an effort was made in 1902 to repeal the law. Bills for that purpose were introduced by Senator Healy<sup>857</sup> and Representative Meservey.<sup>858</sup> The bill introduced by Senator Healy was made retroactive and provided that "no action, proceeding or assessment shall be brought, made or levied for the recovery of taxes alleged to be due on personal property omitted, not listed, withheld or overlooked unless brought or assessed within the calendar year in which said property should be assessed." <sup>859</sup>

Senator Healy regarded the tax ferret law as extremely vicious, resulting in widespread wrong and injustice; and he maintained that only the poorer classes as a rule had been the victims of the ferrets. His measure was referred to as a bill "to abolish tax ferret collection of taxes"; but if passed it would have accomplished more than this by preventing the county treasurer from listing omitted personal property save in the year when it should have been listed by the assessor.<sup>860</sup>

Nothing came of the Healy bill in the Senate; but in the House the measure introduced by Representative S. T. Meservey after experiencing much unfriendly treatment and a number of radical amendments was finally passed. After sleeping in the hands of the Committee on Judiciary until March 15th, a substitute had been reported which provided for the listing of omitted property three years



back, and in order to prevent the traveling tax ferret from operating, it was further stipulated that any person engaged as a tax inquisitor must have been a resident of the county for at least eighteen months prior to the time of commencing work.<sup>861</sup> Later an amendment was introduced and adopted providing for the collection of taxes five years back in place of three.<sup>862</sup> A second amendment substituted "state" for "county" in the matter of residence for eighteen months.<sup>863</sup> The bill thus amended so as to make it practically the same as the old law passed — yeas fifty-seven, nays thirty-four.<sup>864</sup> In the Senate, however, it was laid upon the table<sup>865</sup> and so the effort to repeal the tax ferret law in the session of 1902, or even to make any important amendment, was defeated.

Two years later Senator John H. Jackson of Sioux City, Iowa, introduced a bill to repeal the law relating to the discovery of property withheld from taxation.<sup>866</sup> It was alleged that the results of the tax ferret law were to "mulet widows and orphans" rather than to discover the real tax dodger, and that it would raise interest rates, and drive capital out of the State.<sup>867</sup> Other arguments will be noted later. After prolonged debate the measure was finally defeated in the Senate.<sup>868</sup> A third effort was made to repeal in 1906, but was also defeated in the House by the decisive vote of sixty-one to eight.<sup>869</sup> Thus, after three vigorous efforts to repeal the tax ferret law, it is still on the statute books as originally passed in 1900.

The question naturally presents itself, why this tenacity of purpose both for and against repeal? What were the underlying motives of those who desired to prevent the collection of taxes on omitted property? On the other hand, what accounts for the strength of the opposing forces? To answer these inquiries one should make a critical analysis of the arguments for and against the so-called tax ferret system, which means nothing less than a careful examina-

tion of the very foundation principles of our whole plan of assessment and taxation. In making this analysis two facts should be kept in mind by the reader; first, that there are three distinct types of tax inquisitor work; and second, that the question as a whole is closely linked with the problem of taxing moneys and credits. Reference has already been made to the "birds of passage" who operated, for the most part, prior to the enactment of the regular law in 1900. The work which they did accomplished no good purpose and should, therefore, be condemned. A second class of inquisitors have a large number of contracts, pass from one county to another, spending a few days or weeks at each county seat. This work should also be judged by different standards than that of the ferret who operates consistently in the same county or counties year after year. Unless these facts are kept in mind in connection with the taxation of moneys and credits one will fail to grasp the full meaning of the problems under consideration. Let us proceed to examine in detail the arguments for and against the system.

First of all, perhaps, the claim most frequently advanced is that the principal result of tax ferret work is to mulct widows and orphans — those not shrewd enough to evade the law. This argument was made in 1902, 1904, and again in 1906. It is contended that the large tax dodger is able to outwit the ferret and thus avoid the payment of taxes on his moneys and credits, while widows and orphans are from the very nature of things not proficient in this art. Manifestly, the only reply to such a claim is an impartial examination of the facts, as far as such facts can be ascertained. In the counties where ferrets have operated the records ought to show how much of truth or falsity there is in this argument, which is here considered first not because it is the most important but because it has been advanced with so much force by those who have sought to repeal the law.

The Association of Iowa Tax Ferrets, in the leaflets they

have printed from time to time, furnish data on this point. They endeavor to show that poor widows and orphans are not, as a rule, money lenders and that the bulk of omitted property placed on the assessment roll through their efforts is that of wealthy men and women, or at least those well able to bear their just share of the public burdens.<sup>870</sup>

By request of the writer data has been prepared and brought down to date for a number of the counties where tax inquisitors have operated. For obvious reasons the names of persons paying omitted taxes can not be disclosed. The facts, however, set forth in these pages are a matter of record at the various county seats.

The total amount of taxes collected in Polk County since 1900 on omitted property discovered by the ferrets is \$295,417.96. Of this amount one individual paid \$21,369.91, or one-fourteenth of the entire collection; two individuals paid \$37,112.37, or one-eighth of the entire collection; six individuals paid \$56,824.37, more than one-fifth of the entire collection; ten individuals paid \$69,163.10, more than one-fourth of the entire collection; twenty individuals paid \$88,926.26, more than one-third of the entire collection; fifty individuals paid \$122,782.44, more than forty per cent of the entire collection; and finally, ninety-two individuals paid \$147,911.05, more than one-half of the entire collection. In this connection, the statement made by Messrs. Worthington and Boynton is significant, when they declare that "we desire to emphasize the fact that these ninety-two people were better able to pay these taxes, without inconvenience than any other equal number of persons in this county."<sup>871</sup>

Ferret work was done in Lee County in 1902 and 1903, the contract being secured in 1901. The total collections made amounted to \$77,682.41 on property valued at \$8,768,208. Of this amount ten accounts paid \$21,579.62 and forty-seven accounts paid \$41,697.52, or more than one-half of the



entire collection. In Clayton County, which is an agricultural community without large cities, tax inquisitor work was done in 1901, 1904, and 1907. The total amount collected was \$93,412.07 on property valued at \$9,628,316, of which twenty accounts paid \$29,540.44, or nearly one-third of the entire collection. The collections made in Floyd County amount to \$63,845.89 on property valued at \$5,362,436. One account paid \$11,900; and twelve accounts paid the large sum of \$36,658.27, or considerably more than one-half of the entire collection. In Allamakee County \$29,361.28 has been collected on property valued at \$2,824,228. Of this sum eight accounts paid \$10,528.70. The total amount collected in Cerro Gordo County is \$49,292.77 on property valued at \$3,323,322. Nineteen accounts paid more than one-third of this sum. The same is true in Mitchell County where \$54,840.23 has been collected on property valued at \$4,631,032, more than half of which was paid by thirty-five individuals. Additional data along this line might be given for other counties, but enough has been presented to enable the reader to form an independent judgment as to the merits of the argument under consideration.<sup>872</sup>

The second argument advanced against the tax inquisitor, which is in reality aimed at the whole system of taxing moneys and credits, is that of double taxation. The basis of this claim is clearly stated in a leaflet from Dubuque which was sent to the members of the Thirtieth General Assembly. "Speaking comprehensively", reads this leaflet, "taxable property exists in two forms only — physical property in all its manifold forms, with resultant values, and money, pure and simple."<sup>873</sup>

It is repeatedly alleged that to tax either physical or franchise values and at the same time tax the credit instruments secured by or representing said values is to collect revenue on the same property twice. For example, A

owns a farm worth \$10,000 and pays taxes on it as required by law. B has a mortgage of \$5,000 against this farm and pays taxes on his mortgage. In other words, it is argued that the State creates a fiat value of \$5,000 by levying a tax on \$15,000 of property when only \$10,000 is in existence. Again, a railroad is worth \$10,000,000. The company through its officials is required to make an elaborate report to the Executive Council including items ranging from ties and flat cars to the amount of gross receipts and expense of operation. The corporation is supposed to pay taxes on the full value of its property, the assessment being made at twenty-five per cent of such value as stipulated in the Code. To tax a stockholder two per cent — eighty mills on a twenty-five per cent valuation — on \$50,000 worth of stock yielding perhaps four per cent dividends, is declared to be double taxation on the one hand and practically a confiscation of property on the other. We might multiply illustrations of this argument based on the familiar doctrine of fiat values.

The reply of the opposition to this argument is less satisfactory, but at the same time is not without some real force. It is first alleged that it is not a case of double taxation to the man who holds the mortgages or other securities — that in a word, the capitalist or money lender is talking for the other fellow. This contention has more force when applied to holders of certain bonds and real estate mortgages than for owners of stock in corporations. In the former case the taxes are at least supposed to be paid by different individuals. In the latter case the same person pays both taxes — first on the stock and second on the value or gross receipts of the corporation as the case may be.

In the second place, the opposition calls in question the very definition of the term "double taxation". The question is frequently asked, what do you mean by double taxation? It must be admitted that the more one reads court



decisions with their multiplicity of ad valorem or strict property taxes, license fees, franchise taxes, special assessments, etc., the less he is inclined to feel absolutely sure that he has a clear and satisfactory grasp of this question. If one is to make a rigid definition of double taxation, and then endeavor to eliminate entirely this form of taxes, there is much truth in the claim that the labor will involve the general upheaval and complete reorganization of our whole fiscal system, both from a legislative and judicial standpoint. At this point the attention of the reader is directed to the chapters above dealing with the taxation of banks, insurance companies, and certain public service corporations, and to the chapters on the important subject of railway taxation treated in the second volume of this monograph.

Finally, the public at large feels and many well informed persons continue to assert that the creditor class, the men holding moneys and credits, are already paying much less than their just share of the public burdens — that, in a word, our whole system of taxation is regressive, resting heaviest on the small property holder, and that the proposed exemption of moneys and credits would make it still more regressive and, therefore, more discriminating and unjust. This thought is, perhaps, chiefly responsible for the tenacity of purpose with which the plain people hold to the taxation of moneys and credits. At any rate, the handwriting on the wall is not difficult to read. The program of the tax revisionists of Iowa has always been weak on its positive side. In fact, it has been largely a negative program. If the tax on moneys and credits is to be removed, it is evident that some positive system must be created in its place, more efficient rather than less efficient in reaching the man of means and requiring him to meet his proper share of the burdens of government. The history of taxation in Iowa points to the conclusion that a program of revenue reform



must be positive in order to satisfy the demands of the people.<sup>874</sup>

The third claim made by those who have endeavored to secure the repeal of the tax ferret law is that our system of taxation when actually enforced by inquisitors is inequitable and in many cases, as suggested above, practically results in the confiscation of property. As this contention strikes at the very roots of the fiscal system which has always prevailed in Iowa, it should receive a critical and impartial analysis. The argument is presented in at least three distinct forms: first, that taxation of credits at the domicile of the owner frequently results in a levy of two per cent — eighty mills on a twenty-five per cent assessed valuation — when the rate where the investment is made is only one per cent; second, that the listing of real estate at fifty or sixty per cent of its value, as shown by the reports of the Executive Council, and credits at their full value is a gross and palpable discrimination and places a premium on perjury, fraud and evasion; and finally, that a tax of two per cent, and even more, on stocks and bonds, floating at par and yielding a dividend of four per cent, means that one-half of the revenue derived therefrom is taken by the State — a process which many people justly regard as confiscation and not taxation. These arguments go to the very heart of the whole tax problem, and, it must be admitted, are in a large measure unanswerable. On the other hand, however, it should be stated that in no proper sense do they represent valid objections to the work of tax inquisitors as outlined in section 1374 of the *Code of 1897* and the law of 1900. They are directed against the very foundations of the revenue law of the State, which, in this regard, has remained practically unchanged for half a century. Until this fact is admitted clear thinking on taxation matters is impossible.

Nor has the whole problem as yet been stated. To grasp

the full injustice of our present system one must consider the so-called doctrine of domicile in connection with the actual listing of credits on the one hand and the assessment of real estate on the other. Take a concrete example. A owns a farm which is free of debt and will sell in the market for \$20,000. It should be borne in mind that real estate is taxed where it is located regardless of the owner's domicile. Assume that the land is listed at fifty per cent of its value or \$10,000. This means that it will be assessed and taxed at one-fourth of said value or \$2,500. The data collected by the Executive Council,<sup>875</sup> the Railroad Tax Commissioners, and that presented for Story County justifies this assumption. We will be liberal again and assume a high rate of forty mills—the rate in county districts frequently being as low as twenty-five mills, and in some cases as low as twenty mills. Forty mills or four per cent on \$2,500 means a tax of \$100. In other words, A pays \$100 taxes on a farm worth \$20,000. B also has \$20,000 in credit instruments. Assume that he is worth as much as A, which means that he is free from debts and therefore has to pay taxes on the full amount of his credits. The assessor calls on B who is honest—a legitimate and reasonable assumption—and therefore lists all his credits. Having no debts to deduct (it will be observed that B is not a State or savings bank or insurance company) the full \$20,000 is listed. He pays taxes on one-fourth of this or \$5,000. In other words, A pays taxes on \$2,500 and B on \$5,000 when the property of each will sell in the market for \$20,000. No writer on taxation, theoretical or practical, can justify this condition of affairs. Yet it exists and has existed in Iowa for more than half a century. The cause, however, is inefficient assessment and not the tax inquisitor.

But inequalities do not stop here. B lives in one of the larger Iowa cities and therefore pays an eighty mill rate. In other words, B pays a tax of eight per cent on \$5,000

valuation which amounts to \$400. His position may be stated in two ways: first, assuming that his credits yield five per cent, two-fifths of his income of \$1,000 is taken by the government in the form of taxes; second, he is paying four times as much taxes as A who owns the same amount of property. Nor is the above illustration extreme. Thousands of worse cases exist in Iowa and in other States of the Union. As suggested above, had we assumed the low rate of twenty mills, which exists in a few rural districts the man owning the farm would have paid only \$50 as compared with \$400 for the holder of moneys and credits.

The following questions are left to the judgment of the reader. Is it just or expedient to list the property of one person at full value and that of another at fifty per cent of its value? Is it just or expedient for the State to appropriate \$400 out of an income of \$1000? The writer has personal knowledge of cases where more than this has been taken. In other words, would the General Assembly favor an income tax of forty per cent for Iowa? This is the logical and inevitable result of present laws when enforced either by tax ferrets or regular county officials. Finally, is the system above described conducive to civic morality? Will a man always list his credits when he knows, first, that the State will take a third of his income as taxes, and second, that grossly unequal assessment will compel him to pay a disproportionate share of the public burdens? In a word, what is the basis if any, for the familiar claim of "fraud and evasion"? The critical reader should endeavor to find some answer to these questions not based on mere verbal abuse or unreasoning criticism of those who endeavor to administer the present revenue law. Reduced to its last analysis this is the problem which now confronts the people and the General Assembly of Iowa.

A further comment should be added in this connection. The tax laws of Iowa with reference to public service cor-



porations are so framed that through the operation of the so-called unit rule millions of dollars worth of property are taken from the cities and distributed through certain favored country districts. This means a higher rate of municipal taxes on other property. Under these conditions any plan of exempting moneys and credits from taxation, which, following the domicile of the owner, are found largely in the cities, will meet with serious opposition until the present system of taxing public service corporations is changed, on the one hand, and a more efficient method of reaching the man of means, the creditor class, is devised on the other. So long, for example, as the express company or companies in an Iowa city of five thousand inhabitants pay less taxes than a day laborer who by thrift and economy is trying to become the owner of a modest home, the public at large in these cities is not likely to favor the exemption of credit instruments. In a word, the possible exemption of moneys and credits necessarily involves a complete reorganization of our whole revenue system.

The fourth argument, which is a favorite one with many people, is that the enforcement of our revenue laws by tax inquisitors has a tendency to drive capital out of the State for more lucrative investment elsewhere. Granted that this is true, it is not an argument against the officials who administer the law. It is rather an objection to the revenue system itself and should be recognized as such. How much of truth or error there is in this contention can again be ascertained only by a thorough and impartial investigation of the facts. One should first discover how much capital has left the State since 1900 and how much, on the other hand, has been brought into the State for investment. In recent years many people have left Iowa to settle in Canada and the Northwest. To be fair in our study, all the causes should be carefully examined. Doubtless some capital has left certain sections of the State on account of the enforce-

ment of our tax laws. If so, our revenue system is responsible. Cedar Rapids, Sioux City, Dubuque, and other leading cities of Iowa, through their commercial clubs, have claimed that capital has been driven into other States for this reason.<sup>876</sup>

Those who oppose this general contention point to the rapid increase in the deposits of State, savings and national banks in the last ten years, and further hold that many causes operate in producing the mobility of capital. It is also alleged that the whole argument is based on sophistry, since capital, when it reaches other States, is subject to similar burdens,<sup>877</sup> and that we have no right to assume that their tax laws are not enforced. It must be admitted that there is a large element of truth in this contention when we consider that taxation of credits is the rule and not the exception in other States, as well as in Iowa. The whole subject is complicated; and, while it does not constitute an argument against the work of the tax inquisitor, it is worthy of careful study before any general reform of our revenue system is undertaken. Manifestly, one should not complain of law enforcement when the fault, if any, is with the law itself.<sup>878</sup>

Finally, this summary of the leading arguments pro and con on the question under consideration would be incomplete without reference at least to the oft repeated claim that taxation of credits increases interest rates and therefore places the burden on the debtor class. It is alleged that the interest rate is advanced sufficiently to cover the tax. Here again we have an argument aimed at the very basis of our revenue system and not at the enforcement of the same. Many people seem to become so accustomed to careless administration of laws that they cannot adjust themselves to the thought of actually enforcing laws — especially the revenue law.

It is not intended in this connection to make a complete

study of the relation between interest rates and mortgage taxation — which is a subject large enough for a separate monograph. Like every other complex economic problem there is here a question of fact, not of opinion — still less of mere prejudice or selfish, personal interest. Nor can the subject be dismissed as many suppose, and as some economists have done, with a few broad generalizations. Broadly speaking, economists have quite generally held, or rather assumed, that a tax on credits is shifted in the form of higher interest rates and is therefore paid by the debtor class. Granting that this is true, the question may well be asked, why is the capitalist or creditor class so anxious to have credits exempted from taxation? Is it logical or charitable to assume that the money lender would labor constantly for the repeal of the law taxing credits if he believed that the tax could always be shifted to the borrower in the form of higher interest rates? These are questions which will furnish food for thought and, perhaps, for the formation of an independent judgment.

It is true, that able economists who have made a careful study of mortgage taxation in its relation to interest rates have sometimes arrived at essentially different conclusions. For example, Professor Carl Plehn of California, a recognized authority on finance and taxation, after making a thorough study of the general property tax of his State, concluded that interest rates were increased sufficient to cover not only the tax but also the trouble of shifting the same. Concerning that section of the State Constitution which provides for taxing the mortgagee on the amount of the mortgage and the mortgagor on the value of the property less the value of the mortgage he says: "Theoretically this procedure is justifiable if the tax remains where it is first laid. But in practice it does not fulfill the expectations of the framers of the law because the tax is generally shifted to the mortgagor in the form of higher interest.



And as is usual, whenever any tax is completely and regularly shifted, the cost of shifting as well as the tax falls upon the owner. . . . Under present conditions in California, by far the best plan would be to tax the owner for the whole of the property and to exempt the mortgage.”<sup>879</sup>

Another investigation was made in 1906 by Lawson Purdy, at that time Secretary of the New York Tax Reform Association. The work covered certain counties of New York, where credits were listed and taxed as other property, Massachusetts, where credits were exempted, and Pennsylvania, where a flat rate of four mills is levied. Mr. Purdy presents tables and diagrams showing that the interest rate was highest in New York where credits were taxed and lowest in Massachusetts where they were exempt from taxation. Concerning the rate in Philadelphia he points out that “in spite of the four mill tax the average interest rate in Philadelphia as indicated by the record was 5.16. If the four mill tax is deducted we have a rate of 4.76, almost identical with the Boston record of 4.73, this record in Boston being obtained by considering all the money loaned at rates in excess of 6% as 6% money.”<sup>880</sup>

The New York law taxing mortgages was repealed in 1906 and a recording fee levied at the rate of one-half of one per cent substituted in lieu thereof. Concerning the operation of this law in relation to interest rates, Mr. A. C. Pleydell, the present Secretary of the New York Tax Reform Association says that “it is gratifying to be able to show that the recording tax law has lowered the average rate of interest, that it has increased the amount of money loaned at 5 % or less, and that it has brought more money into the mortgage market; and this, despite the admittedly adverse conditions of the money market.”<sup>881</sup>

Again, Professor T. S. Adams, in a report submitted to the Wisconsin Tax Commission, entitled *Mortgage Statistics and Taxation in Wisconsin and Neighboring States*,

maintains that a tax on mortgages is not necessarily shifted in the form of higher interest rates. Maps and elaborate tables are presented to show that in many cases mortgage taxes remain where they are placed and are, therefore, not shifted to the debtor class. The author certainly finds some examples where this is true, but admits at the same time that the tax in other cases is shifted and that few general conclusions can be drawn. His comparison of Clayton County, Iowa, with Grant County, Wisconsin, will be of interest to the reader. "This one instance", he says, "does not prove, of course, that the old system of mortgage taxation will not, in the long run, and in the majority of cases, cause interest rates to be higher than they would be under a system which virtually exempts mortgages, but it does apparently prove that in one representative county the system of 'double taxation' may be enforced fairly well without, so far as we can see, exercising any appreciable influence upon interest rates."<sup>882</sup>

The views of the Association of Iowa Tax Ferrets relative to mortgage taxation and interest rates should be briefly stated. In a pamphlet submitted to the Thirty-third General Assembly the following logical statement appears: "No PERSON can fix the rate of interest upon the loans he may make and the large amount of loans made by Savings Banks and Life Insurance Companies in all states are at a rate of interest that is based upon the principle of SUPPLY AND DEMAND ENTIRELY as the matter of taxation of such loans is ENTIRELY ELIMINATED by the laws under which savings banks and insurance companies are taxed. The large accumulation of money of this kind makes the rate of interest reasonable and no individual can exact a higher rate."<sup>883</sup> This, in a large measure, is sound doctrine.

Turning another leaf of the same pamphlet, however, we find ourselves in a new realm of thought. "It has been claimed", reads the pamphlet, "that the proposed law pro-



viding for registration fee will decrease the burden on the borrower, but there can be no question but the fee would be shifted to the borrower and he would have to pay it in addition to the market rate of interest."<sup>884</sup> In justice to the author of these statements it should be recognized that he was viewing the same question from different angles.

It must be evident to the thoughtful reader that the whole subject of mortgage taxation and interest rates has been buried beneath a mass of statistics more or less local in character which confuse the mind and prove little or nothing. Much of the discussion appears to be simply a tempest in a teapot. One thing, however, is certain. If all credits, including those of savings banks, insurance companies, and the like, were taxed in all the States of the Union at a uniform rate of two per cent, a large part of the tax would either be shifted to the borrower or interest rates would be arbitrarily reduced through taxation from five to three per cent, or from six to four per cent as the case might be. To hold that the State through its power of taxation can appropriate a third, a half, or, what logically follows, all of the interest is simply a *reductio ad absurdum*. Reduced to its lowest terms, this is substantially what leading economists have always held — and in the main their doctrine is sound.

The student of taxation is aware, however, that what has been assumed is almost entirely without foundation, since the majority of States tax credits in name only. The law is on the statute books, but it is not enforced. People realize this fact, and many "tax reformers" assume in their propaganda that it is true. The interest rate on credits held in a neighboring State whose tax laws are not enforced is neither increased nor diminished by the operations of an Iowa tax ferret who is unable to reach these credits for the obvious reason that taxation of credits follows the domicile of the owner. In the second place, the millions of dollars



loaned by insurance companies and banks of this and other States pay no tax on credits for the reason that our laws permit these corporations to offset their resources by an abundance of liabilities. In other words, a vast amount of loanable capital is practically exempt from this form of taxation.

The conclusion is obvious. If local credits are taxed in a group of counties the capital of banks and insurance companies and that of individuals living in other States will flow in and keep the interest rate near the usual level. To a large degree this would be true even for a State where the law taxing credits chanced to be rigidly enforced. Under modern legal and economic conditions in Iowa and adjoining States if credits are actually taxed in a group of counties without apparently increasing the interest rates, little or nothing is proved either for or against the general proposition that, other things being equal, a tax on credits is in the main shifted to the borrower. The truth of the general law can not be disproved by a mere local study or even a careful investigation embracing an entire State. So long as credit instruments practically evade all taxation in the large majority of States, and so long as millions of dollars of loanable capital are in the hands of companies that pay no tax on credits in this and in many other States, laborious monographs dealing with mortgage taxation and interest rates are likely to prove little.

In concluding this chapter it is necessary to present the claims of the Association of Iowa Tax Ferrets concerning the nature and value of their work. Having briefly sketched the history of the system, and carefully examined the leading arguments relative thereto, we are now in a position to state what the tax inquisitor has accomplished. Granting that the present system of taxation in Iowa is desirable, that moneys and credits should be taxed, it is manifest that the laws providing for these taxes ought to be en-

forced. If regular tax officials lived up to the laws dealing with the assessment of property, we would have no tax inquisitors, or, to phrase it differently, all regular officials would be tax inquisitors. When all is said and done, the ferret merely secures the listing of property according to law. This being true, the system should be judged by the amount of property listed for taxation directly or indirectly through the results of their labors. An earnest effort to secure data along this line has been made by the writer.

A letter was addressed to the various tax inquisitors of the State, and through their coöperation, fairly reliable statistics on the assessment of omitted property since 1900 have been received. The reply to the inquiries received from Worthington and Boynton of Des Moines represents the views of their Association and also gives the list of questions. This letter, which is an excellent statement of the viewpoint of the men actually engaged in the business of searching out omitted property and placing it on the assessment roll as required by law, reads as follows:

I have before me your letter of November first, addressed to Judge Ben McCoy, in regard to tax ferret matters with notations thereon regarding certain points that we talked over recently at the time you visited our office.

I will take up the questions contained in your letter and answer the same to the best of my ability.

1st. What is the total amount of taxes collected by the tax ferrets since Feb. 15, 1902? At that time the amount was \$1,076,-954.80.

Answer: It is almost impossible to get the correct statistics showing the tax ferret collection by reason of faulty methods of accounting in the different counties wherein tax ferret collections are included on the treasurer's books with taxes regularly collected. We are submitting a list of collections in a few Iowa Counties where we have contracts, which is based on the commissions paid the tax ferret. Most of these collections have been made since Feb. 15, 1902. I believe that Mr. Moir's estimate of \$5,000,000.00, since the enact-

ment of the tax ferret law, is not far out of the way and the Association submits this as a conservative estimate of the collections up to the present time.

2nd. To what extent has the listing of moneys and credits, etc. increased in counties where tax ferrets have operated? I would be pleased to receive actual statistics on this point.

Answer: The listing of moneys and credits varies in the different counties in proportion to the thoroughness of the tax ferret work. Like every other business the work was not entirely satisfactory when first started. It was a new business and persons engaged in it who were not thoroughly competent to handle it. Like any other line of business the incompetents have been gradually weeded out to a very great extent. The listing in counties where careful, complete work has been done has undoubtedly increased wonderfully as a direct result of the work. The State Auditor's reports will show the listing of moneys and credits in the various counties. We are submitting a list of counties to you, giving the dates when work was done on same and the contracts in which we have been interested. We would suggest that you compare the listing of moneys and credits in these counties for the year following the date when the work was done and also in cases where the work was done after April first. In cases where the work was done in the Fall, the listing of the January following will show a material increase over previous years, when the work was properly done.

Mr. Peisen will be able to furnish you with a list of counties similar to ours and a proper analysis of the figures will show an increase over all of these counties, beyond a question of a doubt, the direct result of the tax ferret work.

In addition to the amounts shown in the State Auditor's reports, millions of dollars of moneys and credits have been added by the Auditor after the completion of the assessment and before the tax books were turned over to the treasurer, which the State Auditor's reports will not show, as they simply show the assessment as returned by the assessor and not the addition made after the first of April when the assessment was completed.

In accordance with our conversation we furnish you with a list of counties where we have operated and from this list you can very



easily determine whether or not there has been an increased assessment of moneys and credits in these counties.

3rd. In what counties have you or your firm operated and in how many cases have contracts been renewed?

Answer: Our firm has operated in Polk, Johnson, Muscatine, Cedar, Jones, Jasper, Madison, Guthrie, Warren, and Davis Counties. We have renewed contracts in every county where we desired to renew them. In other words, we have never gone to a county board the second time asking for a renewal of our contract and been refused. The only reason we have not renewed contracts in every county is that we could not do the work. In other words we have more work than we can do. We have renewed contracts in Jones county and since our contract terminated there they have again renewed with Judge McCoy. The same is true of Johnson and Muscatine. We have renewed our contract twice in Warren County; in Polk County our contract has been renewed nine times; in Guthrie twice and in our other counties we have followed other persons who did not care to renew their contracts. No competent tax ferret has any difficulty in getting contracts. The Board of Supervisors are in touch with local conditions and realize that the work is not only important but necessary.

4th. What per cent. of our tax payers are reached by the tax ferret system? In other words what per cent of our tax payers are tax dodgers?

Answer: Not over two per cent.

5th. Of this number what proportion are intentional and malicious tax dodgers and what proportion merely fail to pay because they are ignorant of our revenue laws?

Answer: Probably one-half of the number "caught" know that they have not listed their property for taxation and the other half, either do not understand the revenue laws or the assessor fails to call upon them, or for some other reason fail to list.

6th. Of those you collect from what proportion have relatively small incomes and what proportion are well to do? I refer here to the familiar "widows and orphans" argument.

Answer: I answer this question by furnishing you a complete itemized list of the one hundred largest contributors in Polk County, Iowa, under the present tax ferret contract, covering a period of

ten years in time. The proportion of people having relatively small income, who are "caught" under the tax ferret system, does not average one hundredth part of the people who have small incomes who are "caught" by real estate tax laws. In the city of Des Moines there is one man who has nearly three hundred contracts for the sale of cheap houses and lots to the laboring classes. These people are paying the taxes as well on the real estate. In many instances they are day laborers and in some cases wash-women. These people have to pay regardless of their incumbrance, whereas the owner of moneys and credits, however small, is permitted to deduct any liabilities they have from the amount of their credits and pay taxes on the net amount. In addition to this, it is an unwritten law, in the tax ferret business, that people with only a small amount of money are "passed". In the first place it does not pay a tax ferret to go after the "small fry" and while he knows that there is no law for the exemption of people with small amounts of credits and no other property, he usually figures that it is equity to forget about these small claims and this is usually done with the full knowledge of the County Boards.

It must be remembered, however, that very poor people are not exempted from paying taxes on their real estate. There is not a county in the State that does not have people with small incomes and who are heavily encumbered, and who pay taxes on tangible property. I think our list from Polk county will give you facts and figures and will show conclusively that the wealthy pay under the tax ferret system. It is a ridiculous argument to say that poor people are money loaners.

7th. What proportion of those you collect from and therefore those most directly effected seriously object to the tax ferret system? On what do they base their objections?

Answer: For more than twenty one years I have been collecting taxes from the citizens of Iowa. You ask me what proportion of the persons collected from object to the tax ferret system. My experience has been, after meeting a hundred thousand tax payers, in the State of Iowa, that eighty-five or ninety per cent object to any sort of a tax system or at least they object to paying taxes, whether it be on real estate, stock of goods, horses and cattle, moneys and credits, stocks and bonds or any other sort of property. Ninety

five per cent of the tax payers are of the opinion that their taxes are too high. Everybody objects to paying taxes. Talk to the average man about his taxes and he will at once air some grievance; his land is assessed higher than it ought to be; his house and lot is heavily encumbered and is not as good as his neighbor's and is over assessed. Merchants advertising in the public press: "a hundred thousand dollar stock of goods to be sold out," will argue with the assessor that their value should not be over five thousand dollars. Railway Companies, as you know, keep paid attorneys constantly busy trying to get their assessments reduced to a minimum figure. I do not believe that the proportion is any greater of people who object to the tax ferret system than of people who object to taxation in general. As I have before stated most people have a grievance and most of the people who are "caught" in the tax ferret business do not object to the system *when it is applied to the other fellow*. For instance, No. 10 on our list would probably say "I am very glad you caught No. 1. He is the man you should get." Many times people who have been caught themselves give us information to enable us to catch the other fellow.

To sum it all up some people who are caught object to the system. But the proportion of those caught who object is really smaller than the general proportion of people who "kick" on their taxes regularly assessed.

Most people who are caught by the tax ferret have very little to say. They do not "kick" as much as they apologize. Probably five per cent object and urge the well known "Double Taxation" argument, usually arguing that the party owing them the money should be relieved. This is about the only objection that is urged where a principle of taxation is involved.

8th. To what extent do objections come from the "widows and orphans" and to what extent from the capitalistic class?

Answer: In my experience in the tax business I have met so few widows and orphans that I am unable to answer your question. I think there are three or four widows and orphans contained in the list of one hundred I sent you from Polk County and so far as I am aware they did not object at all as they were represented by their attorneys.

This "widows and orphans" argument is a standing joke among



people who have practical experience in tax matters. I do not believe that they object any more than anybody else to paying taxes when they owe taxes and are able to pay them. However, in the few cases we have had, I do not think they object any more than the capitalistic class, if as much.

9th. Please state briefly your usual method of operation when you commence work in any particular county? To what extent are your collections voluntary on the part of the tax payers and to what extent are you obliged to use force in some form?

Answer: To take up the detailed method of operation would occupy too much time in a letter. The next time you are in Des Moines come into our office and we will be very glad to show you our system of handling these matters. In regard to the second question will say that more than ninety-nine per cent of amounts collected in all of our counties are voluntary payments without any dispute or difficulty. In Polk County we have had three cases in court in the past year and these cases are all questions of law.

Question Number 10 in your letter regarding pamphlets and endorsements, will say that we have never secured any written endorsements but we refer you to any member of the Board of Supervisors in any county where we are now operating or any man who was a member of the Board when we operated in a county or any county officer in any of the counties mentioned or to any member of the Polk County Bar.

These references we give to county boards in applying for contracts and we give them gladly because we know that any of the parties addressed will recommend us in our work.

I have tried to cover your questions to the best of my ability. I ask your pardon for going into length in some matters and I hope that you may get some good from this rather extended letter.

In regard to the figures I am sending you, I know they are correct and can be verified by any one at any time. I have taken great pains to make up the collection statement for you. The work involved occupied more than three days time.

I hope that you will call on us again and I assure you that the people in the tax ferret business are not wedded to any particular form of taxation. We are always willing and anxious to learn and if we can be of any assistance in solving any of the vexatious prob-

lems confronting both the public official and the tax payer, we are only too glad to render such aid as we may."

It thus appears that the ferrets of the State insist that if laws are on the statute books they ought to be enforced; that the class they reach would otherwise not bear its just share of the public burdens; and finally, that the efficiency of the system should be judged, first, by the amount of omitted property actually listed, and second, by the amount of moneys and credits voluntarily placed on the assessment roll as a logical result of their work. In completing this study of the Iowa tax inquisitor it is, therefore, necessary to present statistics showing the actual amount of taxes collected on omitted property together with the voluntary increase of assessments resulting therefrom. Both points must be kept distinctly in mind if we are to form a clear idea of the efficiency or inefficiency of the tax ferret system.

First, what is the amount of taxes actually collected on property omitted or for any reason withheld from taxation? For reasons suggested above, absolute accuracy along this line is out of the question. It is true that county records should make these facts readily available, but county records are kept with a deplorable lack of system. In most counties they are a planless chaos, revealing little or nothing of positive value. It is, therefore, necessary to supplement these records with estimates made on the basis of the fifteen per cent commissions received by tax inquisitors.

In 1902, when a serious effort was made to repeal the tax ferret law, the Auditor of State compiled the collections made on omitted property for 1901, which at that time amounted to \$993,699. This data completed and brought down to February 15, 1902, is contained in Table XX,<sup>885</sup> which was presented to the members of the Twenty-ninth General Assembly and served as a telling argument in favor of retaining the tax ferret law. It appears that \$1,076,954.80 had been collected on omitted property — about \$100,-

TABLE XX<sup>885</sup>

THE FOLLOWING STATEMENT GIVES THE NAME OF EACH COUNTY, THE POPULATION OF EACH, THE AMOUNT OF MONEY AND CREDITS RETURNED FOR TAXATION IN 1897, 1898, 1899, 1900, AND 1901, GIVING THE INCREASE OR DECREASE, ALSO GIVES THE DATE OF THE EMPLOYMENT OF "TAX FERRERS" AND TAXES COLLECTED ON OMITTED PROPERTY TO FEBRUARY 15, 1902, IN SO FAR AS WE HAVE BEEN ABLE TO OBTAIN THE AMOUNTS COLLECTED. WHERE WE COULD NOT ASCERTAIN THE TRUE COLLECTIONS TO FEBRUARY 15, 1902, WE TOOK AMOUNTS COLLECTED TO JANUARY 1, 1902

COUNTY	Population	When Tax Ferreys Employed	1897	1898	1899	1900	1901	Increase 1901 over 1897	De- crease	Taxes Col- lected on Omitted Property to Feb. 15, 1902
1 Adair.....	16,192	.....	\$301,188	\$272,532	\$270,563	\$377,287	\$430,300	\$129,112	.....	\$ 6,130.13
2 Adams.....	13,601	.....	201,602	213,980	88,920	501,545	543,569	341,957	.....	14,785.92
3 Allamakee.....	18,711	.....	386,921	950,652	735,243	750,991	874,077	577,156	None	.....
4 Appanoose.....	25,927	.....	625,458	900,688	876,434	1,033,325	1,002,615	377,157	.....	6,000.00
5 Audubon.....	13,626	.....	262,974	328,396	501,566	493,026	645,675	382,701	.....	2,992.34
6 Benton.....	25,177	.....	1,494,204	1,986,298	1,771,375	2,005,121	2,061,162	566,958	.....	.....
7 Black Hawk.....	32,399	1901-2	1,022,718	3,037,584	2,635,572	3,423,029	3,079,660	2,066,972	.....	32,300.00
8 Boone.....	28,200	.....	368,163	1,293,688	1,236,670	1,309,461	1,327,673	959,510	.....	13,513.25
9 Bremer.....	16,305	1900-1-2	747,285	1,034,320	1,082,469	1,217,488	1,550,524	803,239	.....	20,000.00
10 Buchanan.....	21,427	1900-1-2	903,840	1,419,688	1,103,024	1,158,396	1,451,124	547,284	.....	28,609.11
11 Buena Vista.....	16,975	.....	222,509	473,612	509,423	569,088	819,452	596,943	.....	6,121.74
12 Butler.....	17,955	1901-2	704,655	1,048,900	1,083,580	1,111,556	1,183,452	478,897	.....	17,000.00
13 Calhoun.....	18,569	.....	267,747	426,204	371,502	448,692	575,172	307,425	.....	6,754.61
14 Carroll.....	20,319	.....	228,573	591,332	338,520	350,710	341,899	113,326	None	.....
15 Cass.....	21,274	.....	488,833	792,360	765,489	905,292	934,028	445,175	.....	6,478.03
16 Cedar.....	19,371	1900-1-2	1,603,734	2,014,688	1,974,728	2,141,258	2,650,654	1,046,320	.....	21,796.71
17 Cerro Gordo.....	20,627	1901-2	383,028	829,124	592,395	633,925	654,892	271,804	.....	5,009.35
18 Cherokee.....	16,570	.....	393,629	780,108	490,092	624,800	735,946	342,317	.....	1,466.53
19 Chickasaw.....	17,037	1900-1-2	397,883	844,200	843,940	921,174	932,823	644,930	.....	10,000.00
20 Clarke.....	12,440	.....	429,153	415,952	432,162	492,981	578,647	149,494	.....	3,209.40
21 Clay.....	13,401	1900-1-2	97,983	286,468	341,027	389,461	340,686	242,653	.....	10,000.00
22 Clayton.....	27,750	.....	1,513,617	2,257,176	1,983,222	2,174,732	2,580,980	1,067,863	.....	37,000.00
23 Clinton.....	43,832	1901-2	914,647	3,004,376	2,545,580	2,414,004	2,810,627	1,895,980	.....	72,447.56
24 Crawford.....	21,685	.....	250,305	613,616	644,878	576,724	762,917	512,612	.....	11,011.78



TABLE XX—CONTINUED

COUNTY	Population	When Tax Ferrets Employed	1897	1898	1899	1900	1901	Increase 1901 over 1897	De- crease	Taxes Col- lected on Omitted Property to Feb. 15, 1902
25 Dallas.....	23,058	.....	\$876,617	\$831,096	\$1,090,880	\$1,102,288	\$1,478,475	\$599,858	.....	\$3,689.86
26 Davis.....	15,020	.....	928,020	781,788	826,897	849,773	878,125	.....	\$50,495	2,248.00
27 Decatur.....	18,115	.....	524,611	490,188	506,102	619,771	784,146	253,535	.....	5,867.47
28 Delaware.....	19,185	.....	893,988	1,340,638	1,204,638	1,295,524	1,351,792	657,804	.....	16,217.27
29 Des Moines.....	35,989	.....	1,637,517	2,866,264	2,483,759	2,443,765	2,628,571	991,054	.....	42,000.00
30 Dickinson.....	7,995	.....	63,465	242,316	200,775	219,760	244,116	170,651	None	.....
31 Dubuque.....	54,403	.....	2,104,590	5,727,824	4,082,729	4,310,343	4,310,343	2,205,753	.....	57,820.48
32 Emmet.....	9,936	.....	105,744	184,092	176,670	232,148	146,881	41,137	None	.....
33 Fayette.....	29,845	.....	984,647	1,521,628	1,461,624	1,478,016	1,582,187	617,540	.....	10,338.31
34 Floyd.....	17,754	1900-1-2	1,199,961	1,247,268	999,346	1,105,968	1,428,829	228,968	.....	34,261.80
35 Franklin.....	14,966	.....	380,496	474,764	424,219	581,737	605,532	228,036	.....	2,037.14
36 Fremont.....	18,546	.....	805,599	967,112	946,924	896,315	1,105,521	299,922	.....	5,113.35
37 Greene.....	17,820	.....	497,328	651,724	656,452	618,082	739,116	241,788	None	.....
38 Grundy.....	13,757	.....	548,343	700,208	701,094	819,524	962,237	413,294	.....	2,571.32
39 Guthrie.....	18,720	.....	535,872	621,224	550,032	692,330	721,293	185,321	.....	1,800.00
40 Hamilton.....	19,514	.....	382,179	804,768	512,660	618,475	740,160	377,981	.....	4,870.64
41 Hancock.....	13,752	1894-00	796,920	193,762	193,762	288,666	306,805	165,094	.....	2,563.78
42 Hardin.....	22,794	.....	757,582	807,588	1,153,897	1,753,848	2,322,229	1,525,399	.....	54,694.44
43 Harrison.....	25,897	.....	688,185	1,027,680	1,040,881	1,097,994	1,222,424	634,239	.....	18,000.00
44 Henry.....	20,022	1900-1-2	2,298,123	1,565,056	1,332,976	1,605,757	1,832,350	.....	465,773	14,983.59
45 Howard.....	14,512	.....	407,979	718,860	651,910	761,121	725,726	317,747	None	.....
46 Humboldt.....	12,667	.....	381,288	523,332	605,905	622,253	696,257	314,999	.....	4,136.85
47 Ida.....	12,327	.....	278,721	1,389,736	477,333	568,434	568,434	289,713	None	.....
48 Iowa.....	19,544	.....	979,323	1,389,736	1,338,656	1,501,697	1,731,406	762,083	.....	5,943.68
49 Jackson.....	23,615	1900-1-2	1,731,420	2,324,800	2,130,680	2,107,673	2,100,286	368,866	.....	24,290.49
50 Jasper.....	26,976	.....	1,648,994	1,649,356	2,040,471	2,080,346	2,262,480	613,596	.....	3,161.55
51 Jefferson.....	17,437	.....	1,232,118	1,232,090	1,207,899	1,232,324	1,386,379	154,261	.....	4,698.72
52 Johnson.....	24,817	1900-1-2	2,033,715	2,232,044	1,862,632	2,475,323	2,503,168	469,453	.....	12,228.93
53 Jones.....	21,364	.....	1,764,057	2,133,308	2,015,379	2,045,590	2,262,961	488,904	None	.....
54 Keokuk.....	24,979	Oct., 1901	1,711,083	1,522,352	1,065,456	2,021,552	2,172,248	461,165	.....	7,022.11
55 Kossuth.....	22,720	1900-1-2	171,948	627,020	479,048	641,379	770,892	538,244	.....	7,177.59

TABLE XX—CONTINUED

COUNTY	Population	When Tax Ferrets Employed	1897	1898	1899	1900	1901	Increase 1901 over 1897	De- crease	Taxes Col- lected on Omitted Property to Feb. 15, 1902
56 Lee.....	38,719	1901	\$1,307,121	\$1,679,296	\$1,033,779	\$1,432,855	\$1,430,366	\$123,245	None	\$11,036.37
57 Linn.....	55,392		2,072,298	2,771,108	2,931,527	2,690,398	2,992,983	920,090		3,139.14
58 Louisa.....	13,516		969,144	682,096	705,617	750,248	860,196		\$108,948	3,862.48
59 Lucas.....	16,126		491,877	495,524	471,985	524,777	583,180	91,303		
60 Lyon.....	13,165		95,075	303,144	157,723	212,016	203,456	108,381	None	
61 Madison.....	17,710		514,425	525,556	702,456	781,644	874,676	360,251		5,459.79
62 Mahaska.....	34,273		1,519,503	1,599,368	1,169,783	1,379,477	1,460,517		58,986	
63 Marion.....	24,159		1,094,769	1,177,804	1,806,952	1,378,347	1,514,157	419,388		1,812.62
64 Marshall.....	29,991		691,860	1,172,804	1,202,569	1,359,618	1,677,527	985,667		10,200.00
65 Mills.....	16,764		682,922	881,004	823,466	980,206	1,186,435	523,513		5,469.70
66 Mitchell.....	14,916		464,163	1,237,156	1,155,298	1,243,440	1,440,476	976,313		31,800.00
67 Monona.....	17,980		338,451	521,728	488,250	566,487	632,386	294,935	None	
68 Monroe.....	17,985		580,841	466,088	578,727	622,838	681,136	120,295		4,000.00
69 Montgomery.....	17,903		691,666	671,776	734,522	687,866	663,576			7,395.37
70 Muscatine.....	28,242		1,767,834	1,793,316	1,722,883	1,804,241	1,905,253	137,419	28,080	3,727.50
71 O'Brien.....	16,985		104,664	498,212	373,307	427,213	424,744	320,080		3,516.56
72 Osceola.....	8,725		107,079	271,508	92,506	177,023	113,233		None	
73 Page.....	24,187		1,168,125	1,092,948	1,106,311	1,312,362	1,706,813	538,088		7,019.85
74 Palo Alto.....	14,354		121,110	550,048	360,720	575,976	542,632	421,572		2,865.90
75 Plymouth.....	22,209		338,961	619,736	512,632	638,620	667,422	328,461		5,416.82
76 Pocahontas.....	15,339		209,049	334,128	470,108	830,266	645,439	430,439		1,300.00
77 Polk.....	82,621	1900-1-2	1,923,720	3,549,084	3,422,162	3,396,927	3,833,058	1,909,338		82,011.00
78 Pottawattamie.....	54,336		635,629	1,124,664	915,667	1,227,742	1,647,873	962,244		15,120.33
79 Poweshiek.....	19,414		1,289,052	1,414,924	1,419,931	1,567,766	1,896,940	607,888		7,026.61
80 Ringgold.....	15,325		394,215	371,180	437,478	535,001	617,443	223,228		134.00
81 Sac.....	17,639		400,197	754,176	642,119	722,996	769,872	369,675		9,624.80
82 Scott.....	51,558	1901-2	838,420	9,948,820	7,252,638	6,348,360	7,384,333	6,526,315		10,116.59
83 Shelby.....	17,932		321,660	900,888	534,876	600,401	735,333	413,673		41,216.35
84 Sioux.....	23,337		36,957	756,972	620,319	615,609	617,613	580,656		3,065.97
85 Story.....	23,159	1901-2	854,451	1,296,016	1,120,413	1,241,330	1,568,107	713,756		16,000.00
86 Tama.....	24,585		738,006	779,072	921,445	1,099,755	1,239,695	501,690		8,461.35

TABLE XX—CONTINUED

County	Population	When Tax Returns Employed	1897	1898	1899	1900	1901	Increase 1901 over 1897	De- crease	Taxes Col- lected on Omitted Property to Feb. 15, 1902
87 Taylor.....	18,784	.....	\$776,022	\$722,980	\$610,484	\$994,048	\$1,027,876	\$251,854	.....	\$6,704.62
88 Union.....	19,928	.....	220,509	458,284	372,868	318,603	637,093	416,594	.....	2,400.00
89 Van Buren.....	17,354	.....	1,142,937	996,056	1,036,843	1,079,846	1,041,006	.....	101,931	3,431.64
90 Wapello.....	35,436	.....	1,056,165	1,329,332	1,331,337	1,474,507	1,443,052	386,887	.....	7,052.61
91 Warren.....	20,376	.....	853,838	1,024,452	1,201,652	1,352,689	1,563,388	603,550	.....	7,000.00
92 Washington.....	20,718	.....	2,843,400	1,839,176	2,116,934	2,454,833	2,773,577	.....	99,823	10,241.06
93 Wayne.....	17,421	.....	753,168	1,432,724	1,113,773	1,022,060	1,205,284	452,116	.....	407.09
94 Webster.....	31,757	1900-1-2	562,242	745,724	685,361	703,026	1,027,195	466,953	.....	22,308.86
95 Winnebago.....	12,725	.....	159,780	312,336	309,841	354,236	376,308	216,528	.....	2,000.00
96 Winneshek.....	23,731	1901-2	1,012,458	1,442,712	1,466,328	1,513,688	1,707,720	695,262	.....	12,313.16
97 Woodbury.....	54,610	.....	881,510	1,423,964	1,329,615	667,288	624,311	.....	237,199	4,855.54
98 Worth.....	10,887	1900-1-2	312,615	432,892	516,906	525,890	552,696	240,081	.....	2,449.80
99 Wright.....	18,227	1901-2	253,902	715,968	407,153	507,167	553,639	299,737	.....	7,385.89
Totals.....	2,231,853	.....	\$77,096,451	\$117,689,556	\$106,682,840	115,630,698	\$128,777,365	\$51,680,914	.....	\$1,076,954.80



000 of which belonged to a State treasury at that time in need of funds to meet increased appropriations. The table also gives the amount of moneys and credits returned for taxation in 1897, 1898, 1899, 1900, and 1901, the increased listing for 1901 over that of 1897, the population, and finally the dates when tax ferrets were employed. Respecting the latter point, however, the table is evidently not complete. The reader should note especially the vast increase in the listing of moneys and credits for 1901 over that of 1897. This increase of \$51,680,914 was partially due, no doubt, to the operation of tax inquisitors, but it may also be explained by the rapid increase in the wealth and prosperity of the State. As to the relation between the increased listing of moneys and credits and the work of inquisitors, this particular table is not complete enough to enable us to draw many definite conclusions. Ferrets not being employed extensively, save during the last of the five years represented in the table, one can obviously form no valid judgment concerning the increase of voluntary listing resulting from their labors. The large amount of tax collected on omitted property, however, is certainly a good showing and appealed to many members of the General Assembly in 1902.

An effort has been made to bring this statement up to date, but, for reasons already noted, nothing more than a careful estimate based on the commissions received by the leading firms of tax inquisitors now operating in Iowa has been secured. As stated above, in the letter received from Worthington and Boynton, the Association of Iowa Tax Ferrets estimates that about \$5,000,000 has been collected on omitted property since 1900. When we consider that more than a million dollars was collected by February 15, 1902, and that one firm of inquisitors has collected up to date nearly a million and a half of dollars and another firm about a million dollars, it is believed that the above estimate is conservative and reliable. Considering the average rate

of taxes, State, county, and local, where these collections have been made at least \$300,000,000, perhaps \$400,000,000, of property omitted or for any reason withheld from taxation has been listed by the ferrets. (Reference is here made to the actual value and not to the assessed value, which is one-fourth as much.) Nor does this large amount appear in the State Auditor's reports for the obvious reason that such listing in many cases occurred two or three years after the regular assessment roll was made up. The work of ferrets never commences until the assessment roll is completed and regular officials have failed to do their duty as required by law. For this reason, in forming our judgment of the work accomplished by inquisitors we must consider the amount above stated as additional to the increase of voluntary listings.

In Table XXI<sup>886</sup> there is a carefully prepared statement of the omitted taxes collected in Polk County since 1900. The table gives the amount for each year and the total, or \$295,417.96. It has already been noted that more than one-half of this entire amount was paid by ninety-two individuals — among the number being four or five rich widows who had had little previous experience in the payment of taxes.

TABLE XXI<sup>886</sup>

TOTAL OMITTED TAXES COLLECTED BY FERRETS TO DECEMBER 1,  
1909 IN POLK COUNTY

YEAR		
1900	4 months	\$33,356.53
1901		49,165.80
1902	1 month (Jan.)	1,358.86
1902	11 months	29,971.39
1903		22,699.17
1904		39,740.32
1905		36,202.65
1906		25,309.79
1907		14,633.08
1908		25,403.65
1909	To Nov. 1st.	17,576.72
		\$295,417.96

Turning now to the question of the increased voluntary listing of moneys and credits as a result of the efforts of tax inquisitors it may be affirmed that Table XXII<sup>887</sup> for Fremont County is representative of conditions which prevail or have prevailed in many counties of the State. The work was done in that county by Mr. M. W. Moir, who is scientific in his methods and is highly recommended in the counties where he has been employed. In 1908 \$1,487,619 was listed in moneys and credits, and \$2,010,473 for 1909, an increase of \$525,234. Concerning this increase the following appears in *The Tabor Beacon*: "The increase is largely due to the work of Mr. M. W. Moir, who has been employed for several months in looking up accidental omissions and correcting erroneous impressions as to what

TABLE XXII<sup>887</sup>

## INCREASE OF LISTINGS IN 1909 OVER 1908 IN FREMONT COUNTY

CITY OR TOWNSHIP	1908	1909	In-crease	De-crease	Per Cent Increase	Per Cent Decrease
Farragut City.....	\$141,144	\$141,888	\$ 744	.....	3	.....
Randolph City.....	47,068	66,790	19,722	.....	42	.....
Tabor City.....	127,206	146,852	19,646	.....	15	.....
Riverton City.....	29,324	43,288	13,964	.....	48	.....
Thurman City.....	91,412	104,236	12,824	.....	14	.....
Imogene City.....	29,244	53,732	24,488	.....	84	.....
Sidney City.....	307,140	404,930	97,790	.....	32	.....
Hamburg City.....	163,416	182,204	18,788	.....	11½	.....
Benton township.....	55,076	85,368	31,292	.....	57	.....
Riverton township.....	53,564	130,396	76,832	.....	143	.....
Riverside township.....	22,348	59,200	36,852	.....	165	.....
Walnut township.....	7,438	10,100	2,662	.....	36	.....
Locust Grove twp.....	38,276	51,340	13,064	.....	34	.....
Fisher township.....	44,148	71,940	27,792	.....	63	.....
Green township.....	62,272	82,280	20,008	.....	32	.....
Monroe township.....	15,280	12,900	.....	2,380	.....	16
Madison township.....	60,272	72,924	12,652	.....	20	.....
Sidney township.....	60,619	121,397	60,778	.....	100	.....
Prairie township.....	46,820	58,076	11,256	.....	24	.....
Scott township.....	31,652	33,432	1,780	.....	6	.....
Washington township.....	53,900	76,200	22,300	.....	41	.....
Total.....	\$1,487,619	\$2,010,473	\$525,234	\$2,380	43½	av...



property is taxable. The increase in voluntary listing of moneys and credits fully justifies the checking up of a county even if there was no omitted tax collected.’<sup>888</sup>

In *The Fremont County Herald*, the statement is made that “as a direct result of the work and investigations of M. W. Moir and Co., the tax ferrets, more than half a million dollars in moneys and credits have been listed with the assessors of the various towns and townships of Fremont County for 1909 over and above that of the previous year, and taxes on same will be due January 1, 1910.’<sup>889</sup>

In order to make a critical study of the increased voluntary listing of moneys and credits, the writer has made a complete tabulation for all the counties of Iowa giving the population for 1905, the total taxable value of all property for 1908, the actual value of moneys and credits listed for the five year periods 1894-1898 and 1899-1903, and the actual value of moneys and credits listed for each separate year from 1899-1908, inclusive. While this tabulation is too large to be conveniently attached, all statistics given in the text may be easily verified from the official documents of the State.

It has already been pointed out that three distinct types of tax ferret work have been done in Iowa: first, that of the “birds of passage”, who hurried into the State, took the “cream”, and made a sudden departure; second, that of a few inquisitors who contract for a large group of counties, secure some data, and spend a few days (sometimes only one day, or again two or three weeks) at each county seat checking up some of the heavier taxpayers; and finally, where thorough scientific work is done year after year. Perhaps not more than ten, certainly not more than fifteen, counties belong in the third class. One-half or two-thirds of the counties in the State belong in the second class. The so-called “birds of passage”, constituting the first class, did not return after the enactment of the law in 1900 re-

quiring bonds and limiting the commissions to fifteen per cent of the omitted tax collected. This class of ferrets accomplished no good purpose, and in fact did much to discredit the whole inquisitor system in the popular mind.

Regarding the second class of ferret work we have little in the way of comment or criticism. On the one hand, the large tax dodgers, not widows and orphans, are reached; and on the other hand, the work is not thorough enough to enable one to draw any definite conclusions as to the relation between the labors of the inquisitors and the voluntary listing of moneys and credits. No attempt will be made to present any such comparisons; but instead the reader is requested to examine the data given in the light of such local conditions as he may be familiar with for the purpose of ascertaining the increase in the voluntary listing of moneys and credits following the work of the tax ferrets. In this way each one may judge for himself as to the merits of that class of inquisitor work.

As to the third type of ferret work, that which is thoroughly done for a considerable period of time in a few counties year after year, the results are more certain and comparisons, therefore, of greater value. In the few counties where scientific work has been done the results uniformly show an increase, and frequently a large increase, in the voluntary listing of moneys and credits. By scientific work is meant something more than the mere listing of omitted property. It includes the education of tax officials and, in part, the public at large concerning the revenue law and the duty of every citizen to bear his lawful share of the public burdens. The work which a few of the inquisitors have done along this line should not be ignored.

Turning to a study of specific counties, a number of instructive comparisons and contrasts may be pointed out. Allamakee, a rural county, listed \$1,812,068 in the period from 1894 to 1898 as compared with \$4,131,093 for the pe-

riod from 1899 to 1903. A similar increase is seen in the case of the other counties of the State. In some of the counties the listing of moneys and credits for the years from 1899 to 1903 was from two to five times as great as for the period from 1894 to 1898. This may partially be explained by the work of tax ferrets; but it was primarily the result of the great industrial expansion following the crisis of 1893. By 1899 the county had recovered from the panic and a period of prosperity and high prices followed.

It should be stated that in comparing these two five year periods many factors were involved, resulting in a large measure from local conditions, speculation and increased transportation facilities, and too much influence should not, therefore, be attributed to the inquisitor. It appears from Table XX that no tax was collected from omitted property up to February 15, 1902, in the following counties: Allamakee (the county now under consideration), Benton, Carroll, Dickinson, Emmet, Green, Howard, Ida, Jones, Lee, Lyon, Mahaska, Monona, and Osceola. Yet in these counties practically double the amount of moneys and credits was listed in the period from 1899 to 1903 as in the period from 1894 to 1898. In Dickinson and Emmet counties where industrial expansion was unusually great the listing was three times as large in the later period. Some inquisitor work might have been done in these counties after February 15, 1902, which would affect the listings for 1903, and therefore in a small degree the five year period. On the whole, however, the increase in these counties must be explained by the operation of other causes.

It also appears from Table XX that a large amount of taxes was collected on omitted property up to February 15, 1902, in the following counties: Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Clayton, Clinton, Des Moines, Dubuque, Floyd, Hardin, Jackson, Mitchell, Polk, Scott, Webster, and Winneshiek. In this list of counties



the amount of moneys and credits listed for the period from 1899 to 1903 was from two to five times as great as in the period from 1894 to 1898. In Boone County, for example, the increase was from \$2,049,119 to the large sum of \$10,584,107. It should be stated that the ferret work done in many of the counties up to February 15, 1902, was superficial and, therefore, belongs in class two rather than three as described above. As a result of these comparisons and contrasts it may be safely assumed that in those counties where no ferret work, or at best superficial work, was done the listing of moneys and credits increased at least two-fold in the period from 1899 to 1903 over that of the period from 1894 to 1898. In some cases the increase was greater. In counties where thorough scientific work was done, the increase of voluntary listing was about three-fold — in some cases much greater. In other words, an impartial study reveals the fact that the enormous increase of nearly four hundred millions of dollars — the listing more than doubled — in the second five year period was due to a number of causes, one of which was the operation of tax ferrets.

Turning again to a consideration of specific counties, the listing in Allamakee increased but very little from 1899 to 1907, inclusive. For about five years the listing remained practically stationary. In 1907 Peisen and Welch, a firm of accountants very thorough in their methods, received a contract to list omitted property. They began work January 1, 1908; and largely as a result of their labors, it appears that the voluntary listing of moneys and credits increased about four hundred thousand dollars in 1908 — or in other words, nearly twice as much as the increase for the entire period from 1899 to 1907, inclusive. If one desires to be fair in this study it is hard to avoid such a conclusion.

In Benton County where no work was done, the listing of moneys and credits in 1900 was \$2,005,121 and only \$2,430,-

036 in 1906 — an increase of about four hundred thousand dollars. In fact, the listing remained practically the same during the years from 1903 to 1906. But during the period from 1906 to 1908 this county was quite thoroughly worked by Ben McCoy. In 1907 the voluntary listing was \$3,132,461 — an increase of more than seven hundred thousand dollars. Again in 1908 there was a voluntary listing of \$3,568,632 — an additional increase of more than four hundred thousand dollars — making a total increase of over a million dollars in two years as compared with a previous increase of about four hundred thousand dollars in six years and practically no increase for the four years just preceding the operation of the inquisitor. Readers thoroughly familiar with local conditions will be the best able to judge as to the value of this data. It must be conceded, however, that the work of Ben McCoy was an important, perhaps the most important, single factor in producing this result.

Black Hawk is also an instructive county. Heavy collections on omitted property were made there early in 1900. Attention has already been called to the great increase of listing during the period from 1899 to 1903 as compared with the period from 1894 to 1898, an increase from \$5,064,807 to \$15,810,494. The listing in 1899 was \$2,635,572, and \$3,423,629 in 1900 — an increase of about eight hundred thousand dollars. A decrease of about four hundred thousand in 1901 was followed by a larger increase in 1902. In other words, the voluntary listing in 1902 was nearly a million dollars greater than in 1899. Other forces, no doubt, operated, but this large increase was due in no small measure to the work of Peisen and Welch. Following 1902 no additional tax ferret work was done until early in 1907, when a contract was received by Ben McCoy. The reader should note that the listing of moneys and credits in 1906 was only \$3,168,945 as compared with \$3,527,516 in 1902 — a decrease of more than four hundred thousand dollars.

In fact, the amount dropped to \$2,951,536 in 1905. Following the work of the inquisitor the listing again increased about eight hundred thousand dollars in the period from 1907 to 1908.

In Boone County some superficial work has been done, which has had little or no effect. As already explained, this class of work has been done in a large number of counties with similar results. The writer is convinced that the large increase for the period from 1899 to 1903 over that of the period from 1894 to 1898 was primarily the result of other causes, although some collections were made on omitted property as will be seen from Table XX.

In Cedar County rather thorough work has been done, the results of which are apparent. In Cerro Gordo County, however, the effect of voluntary listings has not been so manifest. Clayton, on the other hand, which has been worked as thoroughly as any county in the State since 1900, shows a heavy listing of moneys and credits when one considers that it is distinctly an agricultural community with no large cities. It reveals the effect of careful, scientific work done year after year as compared with the superficial efforts of the "long distance" inquisitor.<sup>890</sup> For example, the voluntary listing of moneys and credits in Clayton for 1908 was \$3,545,681 as compared with the following counties of about the same wealth and population: Dallas, \$2,184,944; Crawford (larger taxable value but less population), \$822,034; Boone, \$1,842,900; Carroll, \$556,390; Hardin, \$2,346,663; Harrison, \$1,798,215; Lee, (more wealth and population), \$2,041,992; Muscatine, \$2,856,732; Sioux, \$1,030,718; Story, \$2,385,828; and Washington, \$3,204,976. Some of the counties named have been worked by ferrets and others represent practically virgin soil — for example, Carroll.

No one will seriously contend that Clayton County should show a voluntary listing of moneys and credits nearly seven



hundred thousand dollars greater than Muscatine — at least that must have been the opinion of the County Board of the latter county when it employed Ben McCoy in December, 1908. Following his work, it is said that the total amount of moneys and credits reported by the assessors for 1909 was \$3,822,475 — an increase of a million dollars which did not include an additional \$416,582 listed by the inquisitor over and above the regular assessment roll.<sup>891</sup>

This discussion might be continued almost indefinitely; but enough has been said to enable the critical reader, with his knowledge of local conditions in a certain county, to form an independent judgment. Thorough ferret work has been done from time to time in the following counties: Fayette, Dallas, Floyd, Henry, Jones, Mahaska, Marshall, Polk, Page, Wapello, Warren, and Woodbury. In some of these counties careful work has been done for a period of years — for example, Page, Polk, and Henry. In other cases, the work has not been continuous.

In concluding this study it is desired to call special attention to the results obtained in some of the counties mentioned. In Page County the contract of Ben McCoy has been renewed from time to time since 1900, and the last one does not expire until January 1, 1912. The actual work, since 1907, has been done for the most part by M. W. Moir, a careful accountant who also did the work in Fremont County, to which reference has been made. In proportion to wealth and population this county and Clayton are among the first from the standpoint of voluntary listing of moneys and credits. The increase has been gradual until in 1908 the large sum of \$3,278,250 was listed. Henry County belongs in the same general class, where the contract of Ben McCoy has been renewed yearly since 1900, and the last one does not expire until January 1, 1911. The amount of moneys and credits voluntarily listed for taxation increased gradually until in 1908 it reached the large

sum of \$2,887,306. If the reader desires to form a judgment concerning the most effective tax ferret work, he should compare the actual value of moneys and credits listed in Henry, Clayton and Page Counties, with that of other counties having an equal wealth and population. He should make his comparison first where no inquisitor work has been done and second where the work done has been hasty and superficial.

Finally, Polk and Cedar Counties represent the work of Worthington and Boynton of Des Moines, a firm of accountants who are also thorough in their methods. In Cedar County the work was commenced in February, 1901, and the voluntary listing increased the following year. In Polk County the contract has been renewed without a break since 1900. While the increase was very large for the five year period from 1899 to 1903 as compared with that of the period from 1894 to 1898, it has not been so manifest considered year by year since 1900. Thorough inquisitor work was done some time after the passing of the ferret law which, it appears, was followed in 1901 by an increase of about five hundred thousand dollars in the voluntary listing of moneys and credits and an additional increase of eight hundred thousand dollars in 1902. In two years the voluntary listing increased from \$3,396,927 to \$4,685,622. In 1903, however, there is a decrease of about a million dollars followed in 1904-1905-1906 by an increase, the highest point being reached in 1906 with a voluntary listing of \$4,931,870. Finally, in 1907 the amount again falls off a million dollars and is increased in 1908 to \$4,664,364. In other words, the increase has been irregular; but considering the period from 1899 to 1909 as a whole it has been very great. Making the study in five year periods, the following results are obtained: 1894-1898, listing \$7,413,989; 1899-1903, listing \$18,984,585, an increase of \$11,570,596; and finally, 1904-1909 listing, \$26,408,493, an additional increase of \$7,413,-



908, or an amount equal to the total listing for the first period.<sup>892</sup>

It will be recalled from Table XXI that the total amount of taxes collected on omitted property in Polk County was \$295,417.96 during the period from 1900 to 1909. This large sum, being collected from property which was listed after the regular assessment roll was completed, is not included in the voluntary listing above outlined. Considering the high tax rate of Des Moines, a collection of \$295,417.96 represents a listing of omitted property of at least \$12,000,000. Adding this sum to the increase of \$11,570,596 for 1899-1903 and \$7,413,908 for 1904-1909, we have a total increase of more than thirty million dollars.<sup>893</sup>

It may be justly claimed that much of this increase has resulted from the natural advance in the wealth and prosperity in Polk County; but it can not be reasonably denied that a large part has also been due to the labor of inquisitors. It must be admitted, however, that when one considers wealth and population, Polk County does not compare favorably with Page, Clayton and Henry Counties, where thorough ferret work has also been done. Clayton with a total taxable value of \$7,286,842 (the actual value being four times as great) listed \$3,545,681 in moneys and credits. On the other hand, Polk County with a total taxable value in the same year of \$26,655,347 listed only \$4,664,364 of moneys and credits. Had Polk listed in the same ratio the amount of moneys and credits voluntarily returned would have been more than twelve million dollars. Two conclusions are possible: first, that conditions are essentially different in the two counties; or second, that a vast amount of moneys and credits in Polk County is still escaping the vigilance of the inquisitors.

Nor does Polk County compare favorably with Scott County, where ferrets have not operated for several years. With a total taxable property of \$17,903,507 in 1908, Scott



County listed \$7,514,782 in moneys and credits. Manifestly, conditions are essentially different in the two counties. Scott has a vast amount of money loaned in this and neighboring States, while Polk is investing heavily in home improvements. A fairer method of comparison is to note that the listing has gradually declined in Scott County, the amount in 1902 being \$7,831,180 and \$7,514,782 in 1908. The same condition also prevails in Clinton, Lee, and Des Moines counties where no inquisitors have operated for several years. Had ferrets operated in these counties, the history of moneys and credits would doubtless have shown the same increase as in Clayton, Henry, Page, and Polk counties.

In this and the preceding chapter, the history of the taxation of moneys and credits, including the last serious effort to administer the system by the enactment of a tax inquisitor law in 1900, has been reviewed. The conclusions reached may be summarized as follows: first, that, wisely or unwisely, moneys and credits, have always been included in the general property tax of Iowa; second, that the public at large, officials, and authorities on taxation, all admit that such moneys and credits either escape taxation entirely or can be listed only at great difficulty and expense; third, that the *Code of 1897* as construed by the Supreme Court gave county boards the right to employ inquisitors, but did not fix the compensation nor provide for the filing of bonds; fourth, that as a definition and limitation of powers already existing, an act was passed in 1900 requiring ferrets to give bonds and fixing their compensation at fifteen per cent of the tax collected on omitted property; fifth, that previous to or under this act three classes of inquisitor work have been done, the first of which was useless and abominable, the permanent value of the second being remote and perhaps questionable, but the third, through the

gradual education of the public in general and tax officials in particular, has increased the voluntary listing of moneys and credits; sixth, that the work of ferrets operating under the law of 1900 has nothing to do with the collection of taxes as such, but merely consists in listing property omitted or for any reason withheld from taxation, a work which would be done by regular assessors if they honestly and efficiently performed their legal duty; seventh, that tax inquisitors are, therefore, simply carrying out the law which regular officials would have done save for their ignorance, incapacity, or in some cases plain dishonesty; eighth, the opposition to tax ferrets when reduced to its lowest terms is in reality opposition to the whole system of taxing moneys and credits and should be judged on that basis; ninth, that the bulk of taxes collected from property listed by inquisitors is paid by well-to-do individuals who, it is claimed, are the best able to bear their share of the public burdens; and finally, that any program of reform which plans on destroying a part of the revenue system must also be constructive, furnishing a more efficient rather than a less efficient means of realizing the goal of tax laws and tax administration, namely, the equality of the fiscal burden.

To the writer the plans of Iowa tax reformers in the past appear to have been primarily destructive. A radical change of policy is imperative if it is desired to make any real progress. In these days of increasing public expenditures it is time wasted to talk of destroying one source of revenue, bad as it may be, until a better and more equitable one is provided. Legislators and reformers should have the patience and the industry to study the revenue system historically and critically. In lieu of this safe constructive policy, a less difficult path, that of legislative reform on the installment plan, has too often been chosen. Even eighty years of failure to create a revenue system by legislation alone has failed to convince many that real fiscal administration is after all the vital and necessary factor.



It will generally be granted that the present tax on monies and credits is antiquated, unjust, and inequitable, whether it is collected or is not collected. If collected, it amounts in some cases to almost a confiscation of property — a thirty, forty, or even fifty per cent income tax, a fact which causes many authorities to believe that it places a premium on perjury, fraud, and evasion. In other words, if successful from the standpoint of the treasury this tax is a miserable failure from every other standpoint. On the other hand, if credit instruments evade the tax burden — the rule and not the exception — the logical tendency is to debauch the public morals and undermine and subvert the whole revenue system. Whether successful or unsuccessful the tax under consideration is a failure. Nevertheless, it is a crude method of measuring tax-paying ability; and it will doubtless remain a fiscal anachronism until some better system is the result of constructive statesmanship. It should be said to the credit of five or six inquisitors who are thorough and careful in their methods that they have temporarily resurrected this worn out system and made it at least the shadow of a success in some of the counties of Iowa. They have demonstrated what can be accomplished by thorough fiscal administration, even under the most unfavorable circumstances.

These special assessors — the tax ferrets — it should be said in conclusion, may be destroyed or superseded in three ways: first, by electing regular officials able and willing to administer present tax laws, a plan which everyone knows to be impracticable and impossible; second, by repealing the law of 1900 together with certain sections of the *Code of 1897*, a scheme which would be a backward and not a forward step; and finally, by creating a fiscal system from the standpoint both of legislation and administration better able to compel all classes to bear their just share of the legitimate burdens of society.



The first part of the book is devoted to a general history of the United States, from the discovery of the continent to the present time. The second part is a history of the individual states, and the third part is a history of the federal government. The book is written in a clear and concise style, and is well illustrated with maps and portraits. It is a valuable work for the student and the general reader alike.

## NOTES AND REFERENCES





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### CHAPTER I

<sup>1</sup> *United States Statutes at Large*, Vol. IV, p. 701; Vol. V, pp. 10, 235.

<sup>2</sup> *Laws of Wisconsin*, 1837-1838, pp. 384-404, 497, 498.

<sup>3</sup> *United States Statutes at Large*, Vol. V, p. 237.

<sup>4</sup> *Laws of Iowa*, 1838-1839, pp. 401-419.

<sup>5</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>6</sup> Part I of this volume will present a brief outline of the development of the general property tax; while specific problems in taxation will so far as practicable, be discussed critically and historically in Part II of this volume and in Part III of volume II.

<sup>7</sup> *Laws of Iowa*, 1838-1839, pp. 402, 403.

<sup>8</sup> *Laws of Iowa*, 1838-1839, pp. 404, 405.

<sup>9</sup> *Laws of Iowa*, 1838-1839, p. 405.

<sup>10</sup> *Laws of Iowa*, 1838-1839, p. 409.

<sup>11</sup> "Seven dollars for every one hundred dollars, of county tax by him collected, and in the same proportion for less sums, to be retained by him, in making payment, and credited therefor in his settlement with the board of county commissioners, five per centum commission, where goods are distrained, and taxes, commission and charges paid before sale; eight per centum commission on sales of distress and charges for keeping property distrained, together with the tax and charges out of the monies received therefrom; on sales of real estate, five per centum on the amount for which the same is exposed to sale, and twenty-five cents for each certificate of sale under this act, which are to be added to, and estimated in, the sum, for which any tract of land, or lot, or part thereof, shall be sold".—*Laws of Iowa*, 1838-1839, p. 413.

<sup>12</sup> *Laws of Iowa*, 1838-1839, pp. 416-418.

<sup>13</sup> This important revenue act which was adopted from the laws of the original Territory of Wisconsin contains the following provisions:

"[SECTION 1.] That, for the purpose of raising a Territorial revenue, to defray the expenses authorized by law to be paid out of the Territorial Treasury, it shall be the duty of the county commissioners of each of the counties of this Territory, at the time of the filing of the assessment roll, to deduct from the gross amount of taxes there charged, five per cent. to be set apart, by the said county commissioners, as a debt due from said county to the Territory.

SEC. 2. The county commissioners shall furnish the Treasurer of the Territory, immediately after the same may be filed, with a copy of the duplicate for their respective counties, for the current year, together with the sum which will be due from said county to the Territory, for that year.

SEC. 3. The first moneys which may be returned by the collector, collected from the duplicate of any year, to the amount due the Territory for that year, from the county, shall be retained by the Treasurer of each county for the use of the Territory, and the county treasurers shall pay over the same upon the drafts or warrant of the Treasurer of the Territory.

SEC. 4. The duties, herein enjoined upon the county treasurers, shall be so considered, that a departure therefrom shall be deemed a breach of the conditions of their official bonds, so that they, and their securities, shall be liable to the Territory for any loss which may accrue therefrom; and any county treasurer who shall dishonor, or refuse to pay, the drafts of the Territorial Treasurer, for any money which may be in his hands, and due from said county, at the time, to the Territory, shall be amerced in damages of fifty per cent."—*Laws of Iowa*, 1838-1839, pp. 418, 419.

<sup>14</sup> *Laws of Iowa*, 1839-1840, p. 16.

<sup>15</sup> "An act amendatory to 'An act for assessing and collecting county revenue,' " approved January 24, 1839.—*Laws of Iowa*, 1839-1840, p. 64.

<sup>16</sup> It is provided "that so much of the act to which this is amendatory as renders improvements upon real estate subject to taxation, be and the same is hereby repealed, and it shall be the duty of the county assessor to assess any real estate by him assessed at the actual value, which such real estate would bear without the improvements thereupon".—*Laws of Iowa*, 1839-1840, p. 64.

<sup>17</sup> *Laws of Iowa*, 1839-1840, p. 65.

<sup>18</sup> The person so refusing to testify is required to pay the assessor five dollars for his extra trouble.—*Laws of Iowa*, 1839-1840, pp. 65, 66.

<sup>19</sup> In his third annual message, submitted November 3, 1840, Governor Lucas says: "It will therefore become your duty to adopt a regular financial system for the Territory, by which the Territory will be enabled to control funds sufficient to meet the necessary expenses incidental to Territorial affairs. I would, therefore, recommend to the consideration of the legislative assembly a review of the financial laws so as to provide a revenue sufficient in amount to meet the actual wants of the government, distributing the burthen and the benefits among every class of community upon principles of exact justice to all".—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 152, 153.

<sup>20</sup> *House Journal*, 1840-1841, p. 30.

<sup>21</sup> In this report the Auditor says: "Permit me to suggest to the Legislative Assembly, a revision of existing laws levying and regulating the Territorial Revenue.

"I am aware that by some it may be considered measurably unimportant to adopt and establish any permanent financial system under a Territorial Government. But when it is considered that there are many expenses incidental to our present form of government, which it is not to be expected that the General Government will pay—and which cannot be claimed as a right, it certainly cannot be deemed otherwise than correct policy to levy upon correct principles, a Territorial Tax, the burthen of which shall be equal upon all classes of citizens.

"The present revenue laws of the Territory authorizes the respective boards of county commissioners to assess a tax for county pur-



poses, which assessment is regulated entirely by the necessities of the respective counties.

"Five per cent upon this assessment constitutes the territorial revenue. It will be seen that under our present financial laws the burthen of a Territorial Tax, levied as at present, operates unequally upon the different counties. In some counties it may be found necessary to levy a heavy tax, while in others, a comparatively light tax would be found sufficient for county purposes.

"The amount of tax at present assessed for Territorial purposes, is deemed sufficient for the ordinary expenses that are now made payable out of the Territorial Treasury, provided the amount assessed be promptly paid—but it is to be feared that in consequence of the liabilities of many of the counties, where county orders have been issued to the creditors of the county, and are outstanding for a greater amount than the tax assessed, which county orders are receivable in payment for tax, that the collectors will not be enabled by the receipts in money for tax to pay the per cent applicable to territorial purposes.

"I would therefore recommend that the laws regulating a Territorial Revenue be so amended as to operate equally upon every class of citizens and that the amount assessed for Territorial purposes be required to be paid in money."—*House Journal*, 1840-1841, pp. 30, 31.

<sup>22</sup> *Laws of Iowa*, 1840-1841, p. 100.

<sup>23</sup> The report of the Territorial Agent, made December 12, 1841, contains the following statement: "Upon commencing the work on the Capitol the past spring, the only means in my hands for its prosecution were the notes on hand given in payment for lots in Iowa City, amounting to \$18,282[.]75.—I found that it would be impossible to render these notes available by the collection of money to an extent that would enable the Superintendent of the Capitol to continue the work. . . . unless further provisions be made, at the present session of the Legislative Assembly, for making available the means under my control for the prosecution of the work on the Capitol, but little can be done towards its completion during the next year."—*House Journal*, 1841-1842, pp. 36, 37.

<sup>24</sup> Speaking of work on the Capitol he says: "I was under the necessity of contracting debts (in anticipation of collection,) for provisions, and other incidental expenses necessary in establishing a boarding house at the stone quarry situate ten miles up the Iowa River".—*Council Journal*, 1842-1843, p. 193.

<sup>25</sup> *Council Journal*, 1842-1843, pp. 193, 194. Cf. Shambaugh's *Iowa City: A Contribution to the Early History of Iowa*, Ch. IV.

<sup>26</sup> "Our population," writes the Governor, "like that of most new countries, is made up, in a great degree, of enterprising and industrious individuals with young and dependent families, who, urged by the hope of bettering their condition, press forward to the frontier with very limited means; and all the money they bring with them, as well as the first products of their labor, is immediately absorbed in the purchase of small portions of land, and in efforts to render it available for their subsistence".—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 264.

<sup>27</sup> The following were the chief provisions of the revenue bill as summarized in the *Standard* editorial:

"First. The gross amount of tax to be levied for County and Territorial purposes, is five mills upon the dollar—one-fourth mill for the use of the Territory. There is excepted from assessment one hundred dollars worth of household furniture, libraries, agricultural implements, tools of mechanics, sheep, the property of all literary institutions, and buildings not valued at more than \$200.

"Ferry licenses are to be taxed not less than two nor more than fifty dollars per annum; Clock pedlars one to three hundred dollars; other pedlars ten to fifty dollars; and Grocery keepers twenty-five to one hundred dollars per annum. A poll tax of fifty cents may be levied on all male citizens over twenty-one and under fifty years of age.

"Second. Lands are to be classed and valued at rates running from eight dollars for the best and one dollar and twenty-five cents for the poorest, or least cultivated, and taxed accordingly.

"Town lots are to be similarly classed (and here we would remark that unless the bill is modified, town lots would SEEM to be subject to the same rates, viz: Eight, five, &c. dollars per acre,—as other lands.) Buildings valued at over two hundred dollars are

to be 'taxed accordingly,' as the law expresses it, and the tax to be a lien on the building.

"Third. Personal property is to be taxed according to the following rate of valuation, viz: Horses from one to three years old shall be valued at twenty dollars; from three to fifteen, at forty dollars; neat cattle from one to three, at four dollars; from three to fifteen, at ten dollars; hogs over eight months old, at fifty cents; wagons and carriages to be valued by the Assessor and owner to the best of their judgment; clocks and silver watches at ten dollars each; gold watches at seventy-five dollars; stock of merchants to be rated at the average amount of what they annually sell, to be given in under oath by themselves or clerks.

"The valuations above provided for to remain a fixed rate for five years unless sooner altered by the Legislature.

"Persons may be sworn as to the value of their property, and if they refuse to testify, the Collector can recover from them the sum of five dollars as compensation for ascertaining the value.

"Assessors are to receive as compensation three per cent. on the total amount of assessed value. Collectors to receive five per cent.; and in case of distress issued two per cent. additional.

"In case taxes are not paid by the first Monday in January, distress may be issued; and if land be levied upon it shall be put up for sale on the third Monday in February. Certificates of purchase to be given, and the debtor to have two years to redeem in, by paying fifty per cent interest."—*The Iowa Standard*, Vol. III, No. 7, January 19, 1843.

<sup>28</sup> *The Iowa Standard*, Vol. III, No. 8, January 26, 1843.

<sup>29</sup> *The Iowa Standard*, Vol. III, No. 8, January 26, 1843.

<sup>30</sup> *Revised Statutes*, 1842-1843, pp. 546, 547.

<sup>31</sup> *Revised Statutes*, 1842-1843, p. 548.

<sup>32</sup> *Revised Statutes*, 1842-1843, p. 549.

<sup>33</sup> *Revised Statutes*, 1842-1843, p. 559.

<sup>34</sup> *Revised Statutes*, 1842-1843, p. 554.

<sup>35</sup> *Revised Statutes*, 1842-1843, p. 563.

<sup>36</sup> *Revised Statutes*, 1842-1843, p. 552.



<sup>37</sup> *The Iowa Standard*, Vol. III, No. 49, December 7, 1843.

<sup>38</sup> *Revised Statutes*, 1842-1843, p. 564.

<sup>39</sup> *The Iowa Standard*, Vol. III, No. 49, December 7, 1843.

<sup>40</sup> *House Journal*, 1843-1844, p. 32.

<sup>41</sup> *The Iowa Standard*, Vol. IV, No. 1, January 4, 1844.

<sup>42</sup> *The Iowa Standard*, Vol. IV, No. 1, January 4, 1844.

<sup>43</sup> *Laws of Iowa*, 1843-1844, p. 32.

<sup>44</sup> *Laws of Iowa*, 1843-1844, p. 30.

<sup>45</sup> *Laws of Iowa*, 1843-1844, p. 30.

<sup>46</sup> According to *The Iowa Standard* "the following are the most striking provisions of the new revenue (or taxation) law, which has just passed the Legislature. It is probably the best and most consistent act of the kind that has ever found a place upon our statute book. Each township (or precinct) is to elect an assessor, who is to receive \$1.50 per day, and no person is to be compelled to serve as assessor for two years in succession. The Treasurer of the county is to be Collector, and receive five per cent. upon all moneys received and disbursed by him, together with Constables' fees and mileage in case of making distress and sale. All property to be assessed at its cash value, taking into consideration the quality of the land, and all local advantages; the following to be exempted: property of the United States and of the Territory; the personal property of all incorporated literary and charitable associations—and real estate actually occupied by them for the purposes of their creation; all churches and burial grounds; one hundred dollars worth of household furniture, and farming utensils, mechanics tools and private libraries, except when they exceed in value \$100; horses and cattle under one year, and swine and sheep under six months. The amount of tax that the County Commissioners may levy for county purposes is 5 mills upon a dollar. A poll tax of not more than 50 cents may be levied upon each male person over 21; but the polls and estate of persons who by reason of age, infirmity and poverty, may in the judgment of the assessors be unable to contribute towards the public charges, may be by them exempted from taxation; such judgment being subject to the reversal or ratification of the

County Commissioners. The assessor is to commence his assessment on or before the 3d day of May, and on or before the 15th of June make return to the Commissioners' Clerk. The Board of Commissioners to hold an annual meeting on the first Monday in July, for the purposes of equalization and levying the county tax. The tax-list to be delivered to the Treasurer on or before the 3d Monday in August, who is to give notice to attend in each township or precinct at the place of holding elections, upon some day in September, for the purpose of receiving taxes; and he is then to attend at his office at the seat of Justice, during the months of October, November and December, for the same purpose. On the first Monday in January he is to make his return to the Board of County Commissioners.

"If any person neglect or refuse to pay his tax, then the Treasurer is to make distress of his goods, except such as are exempt from taxation. The property of a tenant in no case to be subject to distress for the taxes of the property he occupies. All taxes remaining unpaid to draw interest for the first year, at the rate of 50 per cent., and for the second, at 100 per cent. At the end of two years, all delinquent lands to be returned to the District Court, which shall hear the cause, and in default of answer, decree the same to be sold. Property to be redeemable at any time before actual sale."—*The Iowa Standard*, Vol. IV, No. 7, February 15, 1844.

"An independent law has been enacted for the purpose of raising Territorial Revenue", reads another editorial in the *Standard*. "For the present year, a levy of half a mill upon a dollar has been ordered.—The county Treasurer is to be the Collector, and to proceed in the same manner, and receive the same compensation, as in case of county revenue. He is to make out a delinquent list by the first Monday in March of each year, and in thirty days thereafter to settle with the Auditor and Treasurer of the Territory, at the seat of government; and for going to and returning therefrom, he is to receive 5 cents per mile. When the amount of revenue collected is under \$100, the county Treasurer is to transmit it to the Territorial Treasurer by private conveyance, at his own risk."—*The Iowa Standard*, Vol. IV, No. 7, February 15, 1844.

- <sup>47</sup> *Laws of Iowa*, 1838-1839, p. 401; 1840-1841, p. 66.
- <sup>48</sup> *Revised Statutes*, 1842-1843, p. 547.
- <sup>49</sup> *Laws of Iowa*, 1843-1844, p. 28.
- <sup>50</sup> *Laws of Iowa*, 1845, pp. 22, 23.
- <sup>51</sup> *Laws of Iowa*, 1845-1846, p. 5.
- <sup>52</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 95.
- <sup>53</sup> *House Journal*, 1839-1840, pp. 64, 65.
- <sup>54</sup> *House Journal*, 1839-1840, pp. 65, 66.
- <sup>55</sup> *Iowa Capitol Reporter*, Vol. I, No. 4, December 25, 1841.
- <sup>56</sup> See Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*; also Shambaugh's *History of the Constitutions of Iowa*.
- <sup>57</sup> *The Iowa Standard*, Vol. IV, No. 6, February 8, 1844.
- <sup>58</sup> *Iowa Capitol Reporter*, Vol. III, No. 14, March 9, 1844.
- <sup>59</sup> *The Iowa Standard*, Vol. IV, No. 50, December 12, 1844.
- <sup>60</sup> *Iowa Capitol Reporter*, Vol. IV, No. 30, September 3, 1845.
- <sup>61</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 286.
- <sup>62</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 326.
- <sup>63</sup> *House Journal*, 1845-1846, p. 244.
- <sup>64</sup> The act approved February 15, 1844, had provided for the levy of such a "territorial tax as shall from time to time be directed by the Legislative Assembly."—*Laws of Iowa*, 1843-1844, p. 33.
- <sup>65</sup> *House Journal*, 1845-1846, p. 242.
- <sup>66</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 333.
- <sup>67</sup> *Laws of Iowa*, 1838-1839, p. 401.



<sup>68</sup> *Revised Statutes*, 1842-1843, p. 547.

<sup>69</sup> *Laws of Iowa*, 1845, pp. 22, 23.

## CHAPTER II

<sup>70</sup> *Constitution of Iowa*, 1846, Art. II, Sec. 6.—Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 192.

<sup>71</sup> *Constitution of Iowa*, 1846, Art. IV, Sec. 10.—Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 196.

<sup>72</sup> "One of the most important subjects", writes the Governor, "demanding legislative interposition, at the present session, will be that of providing ways and means for the support of the State government. In the discharge of a task so delicate, and of such magnitude in its consequences, I cannot but express a hope that resort to temporary measures of relief may be avoided, and that the responsibility may be fairly and fully met, by the establishment of a permanent revenue system; which, after the first year, will secure to the treasury an annual income adequate to the public wants. Such a step is believed to be called for by considerations of sound policy, and justified by the events which render it necessary. It would be an unwarrantable imputation upon the intelligence of the people, to suppose that they omitted to inform themselves of the burthens the support of a State government would impose upon them when they ratified the Constitution; and to question their willingness now to assume those burthens, might well be regarded as a stigma upon their patriotism".—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 332, 333.

<sup>73</sup> *Senate Journal*, 1846-1847, p. 311.

<sup>74</sup> The Auditor said that "the following counties have not sent up to this office abstracts of their taxable property for the present year, consequently I deem it advisable to charge them in this report with all arrearages, and give what I suppose will be their tax for the present year:

Amount brought forward,

\$1,700 31

<i>Mahaska county, Dr.</i>	
To probable tax for 1846,	60 00
<i>Treasurer of Davis county, Dr.</i>	
To balance due on revenue for 1844,	5 78
do do do 1845,	26 19
probable revenue for 1846,	90 00
<i>Treasurer of Scott county, Dr.</i>	
To balance due on revenue for 1845,	13 87
probable tax for this year, 1846,	300 00
<i>Treasurer of Jones county, Dr.</i>	
To probable tax for this year,	65 00
<i>Treasurer of Jefferson county, Dr.</i>	
To balance due on revenue for 1845,	10 00
probable tax for this year, 1846,	350 00
<i>Treasurer of Des Moines county, Dr.</i>	
To balance due on revenue for 1844,	231 29
do do do 1845,	226 34
probable tax for this year, 1846,	1,100 00
<i>Treasurer of Washington county, Dr.</i>	
To probable tax for this year,	250 00
<i>Treasurer of Linn county, Dr.</i>	
To balance due on revenue for 1844-5,	\$ 94 07
probable tax for this year,	350 00
<i>Treasurer of Jackson county, Dr.</i>	
To balance due on revenue for 1844-5,	17 84
probable tax for this year,	160 00
<i>Treasurer of Louisa county, Dr.</i>	
To balance due on revenue for 1844-5,	94 00
probable tax for 1846,	300 00
<i>Treasurer of Cedar county, Dr.</i>	
To probable tax for 1846	180 00
<i>Treasurer of Wapello county, Dr.</i>	
To probable tax for this year,	65 00
<i>Treasurer of Johnson county, Dr.</i>	
To probable tax for this year,	365 00
<i>Treasurer of Dubuque county, Dr.</i>	
To balance due on revenue up to 1844,	122 66

probable tax for 1844,	100 00
“ “ 1845,	125 00
“ “ 1846,	185 00
<i>Treasurer of Van Buren county, Dr.</i>	
To probable tax for 1845,	650 00
“ “ 1846,	900 00
<i>Treasurer of Kishkekosh county, Dr.</i>	
To revenue for 1845,	6 51
“ “ 1846,	25 00
	<hr/>
	\$8,167.50

—*Senate Journal*, 1846-1847, pp. 314, 315.

<sup>75</sup> See above p. 8.

<sup>76</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 107.

<sup>77</sup> The editorial which is entitled "Taxation and Non-resident Land Holders" contains the following:

"Non-residents who have had capital to spare have invested largely in Iowa land on speculation only. Their wish is, and their course will be, as it ever has been with this grade of people, to let their land lie vacant until the actual settler has so improved the country that they (the non-residents) will realize large profits from the toil of the actual settler. The flagrant injustice in this course, for which we do not so particularly blame speculators as we do those who pretending to be the conservators of the peoples interest, have let their love for the remnant of federalism that still prevails in our country, control them against the best interests of their constituents. There is no way to reach this growing and ruinous evil but by *taxation*.

"It is believed that, by the organic law, there can be no distinction made between the settler and the non-resident; yet the legislature of the State can cease to pass laws for the taxing of *improvements* and place all the taxes on the real estate; making no distinction other than for different grades of land, viz: first, second and third rates.

"Do this, and you at once take a part of the burthen of taxation off from the actual settler and hardy pioneer of the country, and



divide it with those who wish to be benefitted by the labor and toil of others, without paying an equivalent therefor.

“The evil of the present system of land monopoly is multiform and ruinous in its effects upon the country.

“It prevents the dense settlement of the country, and interferes with the establishment of schools in neighborhoods by forcing settlers so far asunder that they cannot maintain teachers.

“It prevents the proper improvements of roads; the building of bridges, &c.

“It discourages the farmer from making such improvements as he otherwise would and could afford, by levying a tax upon every blow that he strikes for the improvement of his premises.

“It establishes the idea that every one has a *right* to make all the money he can off of the labor of others, provided he can do it *legally*, without regarding the immorality of the habit.

“It insures a profitable return on investments of money at the entire expense of the tillers of the soil, and to the infinite injury of every business man within the borders of the State.

“It prevents the cultivation of large tracts of land, causing them to lie waste, to the annoyance and injury of every farmer in the neighborhood.

“We have thus stated some of its evils—now for the remedy. *Take the taxes off of all IMPROVEMENTS and place them alone on the realty—the land.*

“This will place the non-resident and the resident upon an *equality* and they pay taxes according to their landed possessions.

“It will en[c]ourage the farmer to make better and more beautiful improvements upon his premises—thereby adorning the country.

“It will make the taxes so onerous upon non-resident lands that the holders will be glad to sell at fair and reasonable prices to those who will improve, and divide the burthen of government schools, &c., with their neighbors.

“We shall allude to this subject again.”—*The Bloomington Herald*, Vol. I, No. 23, October 23, 1846.

<sup>78</sup> *The Bloomington Herald*, Vol. I, No. 27, November 20, 1846.

<sup>79</sup> *The Bloomington Herald*, Vol. I, No. 27, November 20, 1846.

<sup>80</sup> *The Bloomington Herald*, Vol. I, No. 29, December 4, 1846.

<sup>81</sup> *The Bloomington Herald*, Vol. I, No. 31, December 18, 1846.

<sup>82</sup> *The Bloomington Herald*, Vol. I, No. 34, January 8, 1847.

<sup>83</sup> The following account is taken from *The Bloomington Herald*:

“At a meeting of the citizens of Muscatine county, convened at the Court House in the town of Bloomington, January 2d, according to previous notice, Mr. G. W. Kincaid was called to the Chair, and James Weed Esq., appointed Secretary. N. L. Stout was called upon to state the object of the meeting.

“On motion, the following resolutions were offered by R. P. Lowe, and adopted unanimously, with the exception of the third, and that with only three dissenting voices; one of them voted against it, because of the last clause, vs. ‘unless it shall be for corporation purposes in town’—so the principle throughout was sustained by the meeting.

“Whereas, Capitalists resident and non-resident have purchased especially in the river counties of this state, large quantities of choice and selected lands for speculation rather than for settlement and cultivation, a circumstance highly injurious to the actual occupant and cultivator of the soil in preventing that kind of settlement of the country, desirable for organized society, in the maintenance of schools, churches and other ends and purposes incident to a denser population than can be had under the present system of things in this state.

“And, whereas, these lands of the capitalists are now being more valuable by the labor of the settler, whose improvements are increasing the same, and the fruits of whose industry under the present law, are taxed to support that very government, which protects these lands, and without which they would be measurably valueless; therefore

“Resolved, That in the opinion of this meeting the existing revenue system is radically defective, and unequal in its operation, and should be reformed.

“Resolved, That in adjusting a system of revenue by taxation the Legislature should aim to secure an equality of its burdens, proportioning the same to the benefits which the non-resident receives from the labor of the resident, as well as what each receives on the score of protection from the government.

“Resolved, That in order to obtain an equality in the burthens of a revenue system, a principle of taxation should be adopted, with reference to existing circumstances; and in looking to the condition of land proprietors in this State, it is believed that assessments on land for taxes should be levied and graduated according to the relative value and quality of the same, whether selected in the country or towns, and that the value of improvements on such lands or town lots should not be included in the assessments unless it should be for corporation purposes in towns.

“Resolved, That in the opinion of this meeting such a principle of taxation would not contravene the provision of Congress which prohibits the taxation of non-resident proprietors more than resident.

“Resolved, That while in *town* houses and fences by a kind of fiction, are deemed land or a part of the realty, yet the same fiction does not necessarily and should not exist in legislation, and it is claimed that the legislature have the same power to exempt improvements on land from taxation, as they have the poor man's bedding, his cow or his pig.

“Resolved, That the foregoing preamble and resolutions be published in the *Bloomington Herald*, and that a copy of the same be sent, by the Secretary of this meeting to our representatives and senator in the legislature, requesting them to go for and advocate a principle of taxation shadowed forth in these resolutions.

“On motion of Stephen Whicher Esq.,

“Resolved, That the thanks of this meeting are due, and are hereby tendered, to the editor of the *Bloomington Herald*, for the able manner in which he has, for the last few months, advocated a reformed system of revenue for Iowa.

G. W. Kincaid, Chm'n.

James Weed, Sec'y.”

—*The Bloomington Herald*, Vol. I, No. 34, January 8, 1847.

<sup>84</sup> *Laws of Iowa*, 1846-1847, p. 137.

<sup>85</sup> *Laws of Iowa*, 1846-1847, p. 138.

<sup>86</sup> See above, p. 6.

<sup>87</sup> *Laws of Iowa*, 1846-1847, pp. 136, 139.



<sup>88</sup> *Laws of Iowa*, 1846-1847, p. 136.

<sup>89</sup> *Laws of Iowa*, 1846-1847, p. 138.

<sup>90</sup> *Laws of Iowa*, 1846-1847, p. 146.

<sup>91</sup> *Laws of Iowa*, 1848, Extra Session, pp. 63, 64.

<sup>92</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 397, 398.

<sup>93</sup> See Chapter XIV.

<sup>94</sup> Des Moines, Scott, Clinton, Henry, and Johnson report nothing under the head "value of money invested in property of any kind secured by deed, mortgage, or other evidence of claim."—*House Journal*, 1850, Appendix A, pp. 18, 19.

<sup>95</sup> *House Journal*, 1850, Appendix A, pp. 5, 6.

<sup>96</sup> *Iowa Democratic Enquirer* (Muscatine), Vol. III, No. 26, January 25, 1851.

<sup>97</sup> *Iowa Democratic Enquirer* (Muscatine), Vol. II, No. 50, July 4, 1850.

<sup>98</sup> *Muscatine Journal*, Vol. II, No. 30, December 21, 1850.

<sup>99</sup> Continuing, "Justicia" clearly states that this results in a twofold discrimination:

"1st. Their rights of equality are violated by the discrimination which is made in favor of a certain class of individuals.

"2d. In consequence of this discrimination, a deficit is found in the revenue, and they are double taxed in order to supply the deficiency[.]

In other words, the corporate authorities, under the present laws, not only exempt one species of property from taxation, but compel one class of the community to pay the taxes of another class."—*Muscatine Journal*, Vol. II, No. 30, December 21, 1850.

<sup>100</sup> An act supplemental to the act for the admission of the States of Iowa and Florida into the Union. — *United States Statutes at Large*, Vol. V, p. 790.

<sup>101</sup> *Laws of Iowa*, 1850-1851, p. 66.

<sup>102</sup> *Iowa Democratic Enquirer* (Muscatine), Vol. III, No. 26, January 25, 1851.

<sup>103</sup> *Code of Iowa*, 1851, pp. 75, 95.

<sup>104</sup> *Code of Iowa*, 1851, pp. 76, 77.

<sup>105</sup> See above, p. 283.

<sup>106</sup> *Code of Iowa*, 1851, p. 79.

<sup>107</sup> *Code of Iowa*, 1851, p. 34.

<sup>108</sup> *Code of Iowa*, 1851, p. 81.

<sup>109</sup> *Code of Iowa*, 1851, p. 82.

<sup>110</sup> The term "County Board of Equalization" does not appear in the *Code of 1851*.

<sup>111</sup> *Code of Iowa*, 1851, p. 101.

<sup>112</sup> *Code of Iowa*, 1851, pp. 82, 83.

<sup>113</sup> *Code of Iowa*, 1851, p. 88.

<sup>114</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 432.

<sup>115</sup> *House Journal*, 1852, Appendix, Auditor's Report, p. 2.

<sup>116</sup> *Laws of Iowa*, 1852-1853, p. 123.

<sup>117</sup> *Laws of Iowa*, 1852-1853, p. 125.

<sup>118</sup> *House Journal*, 1854, Appendix, Auditor's Report, p. 65.

<sup>119</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 451.

<sup>120</sup> *Laws of Iowa*, 1856-1857, p. 193.

<sup>121</sup> *Laws of Iowa*, 1856-1857, p. 195.

### CHAPTER III

<sup>122</sup> See above, p. 23.

<sup>123</sup> *Constitution of Iowa*, 1857, Art. I, Sec. 6.

<sup>124</sup> *Constitution of Iowa*, 1857, Art. III, Sec. 30.

<sup>125</sup> *Constitution of Iowa*, 1857, Art. VIII, Sec. 2.

<sup>126</sup> *Constitution of Iowa*, 1857, Art. XI, Sec. 3.

<sup>127</sup> *Constitution of Iowa*, 1857, Art. VII, Sec. 1.

<sup>128</sup> See above, p. 40.

<sup>129</sup> *Report of Auditor of State*, 1857, p. 16.

<sup>130</sup> *Report of Auditor of State*, 1857, p. 18.

<sup>131</sup> "The result of the present system", wrote Governor Grimes, "is that the county treasurers are almost independent of the State control, and the prompt receipt of money due to the treasury cannot be relied on. Besides it operates to the injury of those counties that pay their *quota* of the revenue promptly. A few counties make prompt payments, while others fail to do so. Auditor's warrants are issued to discharge the State indebtedness, which should be discharged with the money due from delinquent counties. These warrants draw eight per cent. interest, which is paid from the State treasury, and is contributed by the counties that are *not*, as well as those that *are* remiss in the discharge of their obligations.

"The amount now in arrear from the several county treasurers, a very small part of which will ever be received by the State;—probably not two per cent.—is \$62,401.94.

"I recommend that each county be required to pay its proportion of the State revenue by a fixed day, under suitable penalties for non-payment. If the county treasurers neglect their duties or default, let the burden fall upon the counties that elect them, where it belongs."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 43.

<sup>132</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 43, 44.

<sup>133</sup> *Weekly Express and Herald* (Dubuque), Vol. XVII, No. 20, February 24, 1858.

<sup>134</sup> *Laws of Iowa*, 1858, pp. 305-329.

<sup>135</sup> *Laws of Iowa*, 1858, p. 310.

<sup>136</sup> See above, pp. 12, 41.

<sup>137</sup> *Laws of Iowa*, 1858, p. 315.



<sup>138</sup> *Laws of Iowa*, 1856-1857, pp. 196, 197.

<sup>139</sup> See above, p. 48.

<sup>140</sup> *Laws of Iowa*, 1858, p. 326.

<sup>141</sup> *Laws of Iowa*, 1858, p. 329.

<sup>142</sup> The Auditor also recommends that the fiscal year of the State should be made to correspond with the calendar year. This would prevent confusion and make the reports date near the time of the meeting of the General Assembly.—*Report of Auditor of State*, 1859, pp. 30-34.

<sup>143</sup> *Iowa State Journal* (Des Moines), Vol. IV, No. 1, February 11, 1859.

<sup>144</sup> The *Journal* recommended the enactment of "a law declaring that all lands upon which the taxes remain unpaid one year after the same become due, shall become forfeited to the county—that it shall then be the duty of the County Treasurer to advertise and sell these lands for the amount of taxes and interest, waiving on behalf of the county all irregularities and informalities in the sale or advertising, and conveying to the purchaser all the title which the county has in the property; if the purchaser is not the owner give him a certain number of years to redeem by paying taxes and interest, at the expiration of which time the right of redemption ceasing, the fee simple will of course vest in the purchaser.

"Such a law will especially compel non-residents to pay their taxes rather than run the risk of forfeiture.

"But whether or not tax payers become more prompt in the payment of taxes under such a law, county and State would secure the money due upon the lands in shape of taxes, since tax titles being rendered sure there will always be abundant funds to buy lands sold for taxes with the certainty of realizing 25 per cent. interest upon the amount invested.

"Of course we are only suggesting the outlines, leaving the details to the 'Solomons' of the General Assembly."—*Iowa State Journal* (Des Moines), Vol. IV, No. 1, February 11, 1860.

<sup>145</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 235.

<sup>146</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 234.

<sup>147</sup> At this time almost none of Chapter 37 of the *Code of 1851* was in force by virtue of its original enactment, although most of it was by virtue of subsequent enactment. Some of it was repealed by Chapter 69 of the *Laws of 1852*. More of it was repealed by Chapter 146 of the *Laws of 1856*, which in turn was largely repealed by Chapter 152 of the *Laws of 1858*. The act with many amendments reappears substantially in the *Revision of 1860*, pp. 108, 109.

<sup>148</sup> *Revision of 1860*, pp. 48, 49.

<sup>149</sup> *Revision of 1860*, p. 114.

<sup>150</sup> *Revision of 1860*, p. 115.

<sup>151</sup> *Revision of 1860*, pp. 124, 125.

<sup>152</sup> *Report of Auditor of State*, 1861, p. 32.

<sup>153</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 262.

<sup>154</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 268, 269.

<sup>155</sup> Governor Kirkwood also recommends that county treasurers be paid, in lieu of salaries, a certain per cent on the amount of money collected and disbursed, or that a system of township collectors, paid in the same way, be established.—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 271.

<sup>156</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 265-268.

<sup>157</sup> *The Iowa State Register* (weekly), Vol. VI, No. 52, February 5, 1862.

<sup>158</sup> *Laws of Iowa*, 1862, p. 16.

<sup>159</sup> *Laws of Iowa*, 1862, pp. 17-20.

<sup>160</sup> *The Iowa State Register*, Vol. VII, No. 2, February 19, 1862.

<sup>161</sup> *House Journal*, 1862, p. 516; also *Senate Journal*, 1862, pp. 542, 543.

<sup>162</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 368.

A strong editorial appeared in *The Iowa State Register* approving the action of the Governor.

"In another place in the columns of the REGISTER", wrote the editor, "will be found the reasons assigned by Governor Kirkwood for withholding his approval from the bill for the reduction of salaries of District and Supreme Judges, District Attorneys and the Officers of State. They are based exclusively upon the consideration that the bill, so far as it relates to certain Judicial officers, would be a plain violation of the Constitution. The facts are presented in a clear, comprehensive manner, and on reflection we think the General Assembly will thank the Governor for assuming the responsibility of exercising in this instance the important negative power which the Constitution has placed in his hands. If the provision relative to the Judges had been omitted, we think it probable that the bill would have received the signature of the Executive, however much he might have differed with the members of the General Assembly as to the policy of their particular measure of reduction in other respects.

"As a matter of relief to the State Treasury, the bill would have been of very little consequence, even had it become a law. It would have taken \$400 from the annual pay of each of the three Supreme Judges; \$300 from the salaries of each of the State officers, save the Governor, and \$400 from his; and reduced the compensation of District Judges and District Attorneys respectively from \$1,600 to \$1,200, and from \$800 to \$600. It would have added a little more than \$8,000 in the aggregate to the revenue of the State Treasury, by taking it from the income of the officers above enumerated, while the great mass of men receiving lucrative salaries from corporations and other sources were passed by unnoticed. The House Income Tax Bill would have reached all classes alike, raised some \$30,000 for the State revenue, and been a measure of visible relief. Inasmuch as that failed of becoming a law, we believe the People will have reason to be thankful that the substitute for it has also failed, not only because of the embarrassment and injustice it would work to faithful present incumbents, but because of the



premium it would offer to incompetent and consequently unprofitable public officers.”—*The Iowa State Register*, Vol. VII, No. 10, April 16, 1862.

<sup>163</sup> *Laws of Iowa*, 1862, p. 224.

<sup>164</sup> See Vol. II, Chapter XVII.

<sup>165</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 321.

<sup>166</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 6.

<sup>167</sup> “From various sources,” wrote the Governor, “my attention has been earnestly invited to what, in the opinion of many, are cogent reasons for changing our present form of County government. The Supervisor system, created by Act of the Eighth General Assembly, has failed to command that general satisfaction which its advocates predicted and desired. . . . Those who desire a change, express their preference for the Commissioner system, which has prevailed so long, and operated successfully, in many of the older States, and if, after due investigation, any change may be deemed advisable, I would recommend this system to your consideration, as being the most simple, and practical, of any that could be adopted.”—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, pp. 6, 7.

<sup>168</sup> *Laws of Iowa*, 1864, pp. 42, 43.

<sup>169</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, pp. 39, 40.

<sup>170</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 32.

<sup>171</sup> The *Daily Iowa State Register* contains the following estimate of this important bill:

“Senator Hilsinger, of Jackson County, has introduced into the upper branch of the General Assembly a bill providing for the collection of public moneys by Township Collectors instead of County Treasurers, as at present. The bill provides that the Board of Supervisors in each county may decide whether or not the Township system shall be substituted for the County system. In counties

where the substitution may be made, the Collectors are to be chosen at the ensuing general election, the same as other Township officers, hold their offices one year, give bonds in amounts equal to fifty per cent. more than the tax levied in the township, make monthly returns of the taxes collected to the County Treasurers, and receive as compensation two per cent. on all sums due municipal corporations, and two per cent on all other funds. In case of collections by distress and sale, the collectors are to receive five per cent. The County Treasurers, in counties where the mode of collections shall be changed, will be entitled to receive for their services, one per cent. of all taxes collected and paid over to him by the township collectors, except municipal funds; three per cent. of non-resident taxes before duplicate tax-lists shall be returned, three per cent. after they shall be returned, and five per cent. on taxes collected by the sale of real estate.

“Mr. Boomer of Delaware county has introduced into the House a bill containing substantially the same provisions as that of Senator Hilsinger. That the system of Township Collectors works well in the older States, we know from a practical experience of twenty years. Taxes under it are collected far more promptly and thoroughly than they can be by one man, located at the County-seat. But of course in a new State, like Iowa, there may be, and probably are, counties in which there is not sufficient population to warrant the employment of the township collector system. Where the lands are owned mainly by non-residents, it would not be either profitable or convenient to have the collection of the public moneys in other hands than those of the County Treasurer at the County seat. But that the older and densely settled Counties like those on the Mississippi, may prefer the other system, is probable, and these bills now before the General Assembly confer authority to make the change in case the County Legislatures so enact.”—*Daily Iowa State Register*, Vol. V, No. 4, January 21, 1866.

<sup>172</sup> *Daily Iowa State Register*, Vol. V, No. 10, January 28, 1866.

<sup>173</sup> *Daily Iowa State Register*, Vol. V, No. 10, January 28, 1866.

<sup>174</sup> *Senate Journal*, 1866, p. 159.

<sup>175</sup> *Senate Journal*, 1866, pp. 166, 167.

<sup>176</sup> *House Journal*, 1866, p. 109.

<sup>177</sup> *House Journal*, 1866, p. 253.

<sup>178</sup> *Daily Iowa State Register*, Vol. V, No. 39, March 3, 1866.

<sup>179</sup> *Daily Iowa State Register*, Vol. V, No. 40, March 4, 1866.

<sup>180</sup> *House Journal*, 1866, p. 437.

<sup>181</sup> *Senate Journal*, 1868, p. 526.

<sup>182</sup> *Laws of Iowa*, 1868, p. 176.

<sup>183</sup> *Laws of Iowa*, 1868, p. 179.

<sup>184</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 314.

<sup>185</sup> In this instructive report the Auditor says: The advantage of the geographical or congressional system of assessment for taxation, as I understand it, is:

"1. The system naturally covers the whole taxable area, and thereby secures the whole legitimate revenue. If all sections, quarters and sixteenths were uniformly 640, 160 and 40 acres respectively, and assessments made in uniform tracts, there would seldom be any errors under such a system; but as sections are often fractional through erroneous surveys and by reason of meandered streams, and as sections, even when uniform, are sub-divided into tracts of all possible sizes and forms, it is found indispensable to a perfect assessment to adopt a system of *headings*, or *captions*, with one to each quarter-section, or as near as this may be found practicable. A system of this kind, with quarter-sections in distinct paragraphs, will most certainly place upon the assessor's, auditor's or treasurer's books every piece of real estate, however fractional. The same system and principles are equally applicable to village or city property.

"2. This system protects the tax payer, for the very same principle which secures the whole taxable area will just as surely protect the tax payer from the slightest double assessment.

"3. This system further secures the revenue by avoiding double assessments, as it is found by careful examination, that in most cases where double assessments occur, some tract or lot is correspondingly omitted from the true assessment; and when the double



tax is eventually discovered and refunded, there still remains an actual loss of revenue, which is never supplied from any source. An unvarying system of assessing property, omitting nothing, doubling nothing, has the advantage of securing the whole revenue to the State, or to the various funds, while the tax payer is not burdened with corrections of errors, disadvantageous compromises, misunderstandings and vexatious litigations.

"4th. Such a system would greatly reduce the number of illegal tax sales.

"5th. Under such a system the valuation of real estate would be materially *equalized* by marshalling or grouping contiguous property together, instead of scattering the same in many places over the books of a whole township or city.

"6th. This system could be made to reduce the expense of publishing delinquent lists as the columns for township and range can be omitted. All double assessments would be thrown out and owners names might be omitted.

"7th. This system would save materially in the time and expense of boards of Supervisors as it would greatly reduce the number of cases coming before them."—*Report of Auditor of State*, 1869, pp. 88-90.

<sup>186</sup> *Laws of Iowa*, 1870, p. 178.

<sup>187</sup> *Shambaugh's Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 332.

#### CHAPTER IV

<sup>188</sup> See above, pp. 64, 65.

<sup>189</sup> In this connection we do not refer to certain specific forms of taxation which had already been developed for insurance companies, railroads, etc. See Chapters VI-XV; and Vol. II, Chapters XVI-XXIII.

<sup>190</sup> This reference is in the main to Title VI of the *Code of Iowa*, 1873, which was passed by the adjourned session of the Fourteenth General Assembly.

<sup>191</sup> See above, pp. 53-55.

<sup>192</sup> See above, p. 262.

<sup>193</sup> Other changes will be discussed in connection with the taxation of railroads, insurance companies, etc.

<sup>194</sup> *Code of Iowa*, 1873, p. 140.

<sup>195</sup> *Revision of 1860*, p. 113.

<sup>196</sup> *Code of Iowa*, 1873, p. 138.

<sup>197</sup> *Code of Iowa*, 1873, p. 139.

<sup>198</sup> This change was made in order to adjust the system to the township board of equalization created by the Thirteenth General Assembly.—*Laws of Iowa*, 1870, p. 94.

<sup>199</sup> The township board of equalization has the sole power to correct inequalities between individuals, a point which will receive further consideration.

<sup>200</sup> *Code of Iowa*, 1873, p. 20.

<sup>201</sup> The Census Board had met on the first Monday in August and were required to complete their work of equalization on or before the third Monday of August.—*Revision of 1860*, p. 115.

<sup>202</sup> *Code of Iowa*, 1873, p. 142; *Revision of 1860*, p. 116.

<sup>203</sup> See above, pp. 64, 65.

<sup>204</sup> The reader should bear in mind that in this connection reference is made to the general property tax and not to the assessment of railroads, insurance companies, etc.

<sup>205</sup> *Report of Auditor of State*, 1873, pp. 98, 99.

<sup>206</sup> In this connection Governor Carpenter said: "In addition to his [the Auditor's] recommendations in reference to changes in the management of the revenue, I will suggest whether it would not be well to collect the taxes semi-annually instead of annually, as now required by law. This would not only benefit the tax-payer by relieving him from the necessity of raising all the money at a single payment, but would leave one-half the amount of his taxes in his own hands for use six months in each year, whereas otherwise it would remain idle and non-productive in the treasury. Governor Chase suggested this reform to the Ohio legislature during the stringency for money following the financial crisis of 1857, and it

has been found to work so admirably that the practice has been continued.”—Shambaugh’s *Messages and Proclamations of the Governors of Iowa*, Vol. IV, pp. 33, 34.

<sup>207</sup> In reply to the objection that such a plan would be unfair to the counties the Auditor pointed out that “in order that there can be no question as to the reasonableness and justice of the proposition, it is contemplated to surrender to the counties all the interest collected upon State tax levies, together with all additions to the list by reason of the additional assessments, and also the entire amounts received from peddler’s licenses. Such arrangement would not only be just in every respect, but would promote a more general observance of the law regarding the last item above mentioned by the incentive given in the direction of increased revenue from that source alone.”—*Report of Auditor of State*, 1875, p. 4.

<sup>208</sup> *Report of Auditor of State*, 1875, pp. 5, 6.

<sup>209</sup> Shambaugh’s *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 125.

<sup>210</sup> *Report of Auditor of State*, 1877, p. 8.

<sup>211</sup> See Vol. II, Chapter XXV.

<sup>212</sup> *Report of Auditor of State*, 1877, p. 8.

<sup>213</sup> *Report of Auditor of State*, 1877, p. 6.

<sup>214</sup> In regard to the assessment of real estate the Auditor says: “It is true, the law plainly requires all property to be assessed at its true cash value; but any one acquainted with the facts knows this is rarely attempted, much less done. Take the real estate assessment of the present year as an example. The average value of the lands in the state, as reported to me after equalization by the county boards, was but seven dollars per acre—at least less than half the actual average value through the state. In some of the old settled counties, where every acre is under a high state of cultivation, and the ‘quality, natural advantages, improvements, and location are unsurpassed,’ the average per acre as reported, was less than twenty dollars!”—*Report of Auditor of State*, 1877, p. 5.

<sup>215</sup> Shambaugh’s *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 328.



<sup>216</sup> In this connection the Governor points out that with each county would rest "the adjustment of its personal property valuations, without fear that they might be so high as to work injustice to itself in comparison with other counties."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 328.

<sup>217</sup> See Vol. II, Chapter XXV.

<sup>218</sup> Quoted in *Iowa State Register*, Vol. XVII, No. 33, January 31, 1878.

<sup>219</sup> Quoted in *Iowa State Register*, Vol. XVII, No. 33, January 31, 1878.

<sup>220</sup> *Iowa State Register*, Vol. XVII, No. 48, February 17, 1878.

\* <sup>221</sup> *Report of Auditor of State*, 1879, p. 6.

<sup>222</sup> "The most serious injustice, however," writes the Auditor, "is in the assessments of THE PERSONAL PROPERTY, in respect to which greatest irregularity prevails. Not only is it true that the valuations of the same class of property in even adjoining counties assume the widest range, but it is also conspicuously true that not even the half of the personalty is assessed at all! And this, not through the fault or connivance of the assessor, but because the owners do not report it, and by reason of the peculiar character of much of this property, it is impossible for the most diligent assessor to ascertain its nature or value."—*Report of Auditor of State*, 1879, p. 7.

<sup>223</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 23, 24.

<sup>224</sup> *House Journal*, 1880, p. 19.

<sup>225</sup> Pliny Nichols in the *Iowa State Register*, Vol. XIX, No. 20, January 24, 1880.

<sup>226</sup> Under date of February 5, 1880, the following editorial appeared in the *Iowa State Register*:

"A few days ago the Hon. Pliny Nichols, of the lower House of the Iowa Legislature, who is very active in the good work of advancing some very much-needed reforms at the hands of the present Legislature, addressed the following letter to the Auditor of the State of Ohio:

'Des Moines, Iowa, Jan. 22, 1880.—Auditor of State, Columbus, Ohio. Dear Sir: Does your law allowing of payment of taxes by installments give general satisfaction? Are your collections as prompt as they would be if required to be paid all at once? Does the law have any tendency to prevent defalcation by taking away the temptation of a large amount of funds in the treasury?

Answers to these questions and any other suggestions in the matter will be appreciated as we have a bill before the Legislature covering about the same ground as your law on that subject.

Very truly,

PLINY NICHOLS.

In response to Mr. Nichols' inquiry comes the following very emphatic letter:

'State of Ohio Auditor of State's Office, Columbus, Jan. 30, 1880. Dear Sir:—In answer to your letter of 22d inst. would say: That the law for the semi-annual collection of taxes has been in force in this State twenty-one years, and it gives general satisfaction so much superior to the old annual system that under no circumstances could we be induced to repeal the present law.

'The present law has a tendency to prevent defalcations, keeps money in circulation, makes tax paying much easier than under the old law, and is in every way a good law.

Yours truly,

JOHN F. OGLEVEE, Auditor of State.'

"This is strong testimony in favor of the method, and it will no doubt exert a large influence on the members of the Iowa Legislature in favor of the bill now before that body to establish the same practice in this State."—*Iowa State Register*, Vol. XIX, No. 30, February 5, 1880.

<sup>227</sup> A second letter written by Mr. Nichols to the editor of the *Iowa State Register* is also instructive. He said in part:

"Now there can be objections to the proposed law from but three sources only. The first comes from a few officials, who regard their own ease more than the interests of the people; secondly, from a few banks that would serve themselves at the expense of the taxpayer, and lastly, a few citizens who regard the favor of a few officials, and capitalists, more than they do the general welfare of

the public. But, while such may be the case with a few, it certainly is not the rule, as I take it that a great majority of our officials, bankers and citizens are too high-minded to desire to serve self, where it would be so manifestly at the expense of the material interests and convenience of the tax-payers.

"This bill in its present shape has the approbation of the present Auditor of State, than whom there is not a more clear-headed and efficient officer in this or any other State.

Respectfully,

PLINY NICHOLS."

—*Iowa State Register*, Vol. XIX, No. 34, February 10, 1880.

<sup>228</sup> *House Journal*, 1880, p. 234.

<sup>229</sup> *Senate Journal*, 1880, p. 172.

<sup>230</sup> *Senate Journal*, 1880, p. 231.

<sup>231</sup> *Iowa State Register*, Vol. XIX, No. 53, March 3, 1880.

<sup>232</sup> *Senate Journal*, 1880, p. 441.

<sup>233</sup> *Iowa State Register*, Vol. XIX, No. 42, February 19, 1880.

<sup>234</sup> *Iowa State Register*, Vol. XIX, No. 41, February 18, 1880.

<sup>235</sup> At least fifteen tax bills were introduced in the Eighteenth General Assembly.—*Senate Journal*, 1880, pp. 652, 653.

<sup>236</sup> *Laws of Iowa*, 1880, p. 193; see also *Iowa State Register*, Vol. XIX, No. 44, February 21, 1880; *Iowa State Register*, Vol. XIX, No. 70, March 23, 1880.

<sup>237</sup> *Iowa State Register*, Vol. XIX, No. 39, February 15, 1880.

<sup>238</sup> *Report of Auditor of State*, 1881, p. 7.

<sup>239</sup> The following reasons are given for this recommendation:

"1st. It will force boards of supervisors and assessors to comply with the laws regulating assessments and equalization.

"2d. The present practice does the State credit and resources great injustice. The average reader, who is not otherwise informed, or business man accepts the reported assessed value as the true value of the material resources and wealth of the State. Surely this one-third rule in making assessments does injustice to the fair fame of the State in this way: It decreases the valuation of taxable



property and increases the *per centum* of taxation. If the plain letter and spirit of the law were followed, the valuation would be increased and the per cent of taxation decreased, and still the same amount of taxes secured."—*Report of Auditor of State, 1881*, p. 7.

<sup>240</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 103, 104.

<sup>241</sup> *Senate Journal*, 1882, p. 130.

<sup>242</sup> This was Senate File 74, introduced by Senator Nichols of Muscatine.—*Senate Journal*, 1882, p. 55.

<sup>243</sup> *Iowa State Register*, Vol. XXI, No. 46, February 23, 1882.

<sup>244</sup> The following is the minority report drafted by Senator Nichols:

"1. For good and obvious reasons we believe, with Governor Sherman, that semi-annual payment of taxes, inaugurated here, would materially reduce our delinquent tax list and annual tax sales, in that, while the plan makes tax paying much easier, it at the same time doubles the inducements to the citizen to pay his taxes when due.

"2. The plan provides the best possible preventative against defalcation, in that, while the amounts collected would be ample to meet ordinary expenses of the Government, there would not be any large amounts of money on hand, for any considerable length of time, to furnish the opportunity for, and temptation to a corrupt use of the public funds.

"3. The plan would leave in the hands of the tax payers of the State, at their option, five millions of dollars, for six months to do service in the varied industries of the State, while if paid in, would not only be of no use to the Government for that length of time, but a source of inconvenience and loss, in that it must be guarded and the risk incurred of losing a portion thereof before it could be legitimately used in the interests of the Government.

"4. We find that the expenses to be met by the Government, as a rule, are monthly and that at the end of the month, such being especially the case in relation to school expenses and the salaries

of our legion of public officers, who are paid after the service is rendered, while as to the expense of our State institutions, pay quarterly in advance would meet every necessity. Such being the case, it is manifestly imposing an unnecessary and inexcusable burthen on the tax payers of the State, to require them, under strong penalties, to pay in the aggregate five millions of dollars annually, six months before it can be legitimately used, only that it may be locked up for that length of time, or that private interests may get the use of it without charge and at the expense of the tax payers. It is thus seen that the interests of good government would be much better conserved by the semi-annual than the annual payment of taxes, and it is believed that when properly understood by our people, it would be more than satisfactory to all parties, save those whose personal interests run in the direction of requiring tax[s] to be paid in six months before it is used by the Government.

“5. We find that in States where this plan has been adopted it gives the best of satisfaction, especially in Ohio, where all bear witness of its good effects, both as to the public revenues and the interests of the private citizen, it being claimed by both the Auditor and Governor of that State that the plan ‘makes taxpaying much easier;’ ‘keeps money in circulation;’ ‘prevents defalcation;’ ‘that it is in every sense a good law;’ ‘against which no objection can be raised, and that after twenty-three years’ experience no inducements would be sufficient to cause them to go back to the old annual system of payment of taxes.’

“6. Now, the undersigned believe that a measure that would do away with ‘more than one-half our annual tax sales;’ that would virtually dry up the stream of defalcation; that ‘would make tax paying much easier,’ than under the present law; that would prevent ‘the locking up of a large sum of money for several months each year;’ that would save the taxpayers of the State from paying, in the aggregate, a large sum of money in the way of interest each year; a measure that in so many ways would lighten the unnecessary burthens of taxation, while it would do no injustice to any citizen, interest or corporation; a measure that has been proved in some of our best and most prosperous States, and found to be in every sense a good law—such a measure, the undersigned believe, would be a good thing for Iowa, and therefore ask that this report be substi-

tuted for the majority report on said bill, and recommend that the bill do pass.

NICHOLS of Muscatine,

Representing said Minority."

—*Iowa State Register*, Vol. XXI, No. 38, February 14, 1882.

<sup>245</sup> *Senate Journal*, 1882, pp. 313, 314.

<sup>246</sup> "Very much of the burden of taxation of which we hear so much complaint", reads a communication in the *Iowa State Register*, "is caused by lack of system, first in the assessment and equalization; afterwards in the local levy and finally and chiefly in the manner of expending the various funds.

"Speaking of the country: there may be found in many of the townships persons holding both the office of assessor and trustee at one and the same time, thereby making the assessment, also helping to equalize it; another holding the office of township clerk and also the office of road supervisor, consequently drawing the funds out of the county treasury and paying it out to himself, while perhaps the trustees who should, according to law, settle with them, are surety on the official bond of both clerk and road supervisor. Is it any wonder that people's taxes are squandered?

"In the name of all that is honest and just, let us have a law prohibiting any man from holding more than one township office at the same time, or becoming surety on the official bond of another township officer.

"These safeguards can do no *possible* harm, and they cannot fail to remove temptation and make it impossible to cover up crookedness."—*Iowa State Register*, Vol. XXI, No. 32, February 7, 1882.

<sup>247</sup> *Laws of Iowa*, 1882, pp. 105, 106.

<sup>248</sup> *Laws of Iowa*, 1882, p. 6.

<sup>249</sup> *Laws of Iowa*, 1882, p. 110.

<sup>250</sup> *Report of Auditor of State*, 1883, p. 88.

<sup>251</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 260.

<sup>252</sup> It was introduced as Senate File 13.—*Senate Journal*, 1884, p. 43.

<sup>253</sup> *Senate Journal*, 1884, p. 570.



<sup>254</sup> *Iowa State Register*, Vol. XXIII, No. 69, March 20, 1884.

<sup>255</sup> *House Journal*, 1884, p. 668.

<sup>256</sup> *Iowa State Register*, Vol. XXIII, No. 69, March 20, 1884.

<sup>257</sup> We read the following in the *Iowa State Register*: "Last week we tried to portray the injustice of the State imposing such heavy interest or penalties on men who are not able to pay their taxes promptly. But there is another practice in connection with the collection of taxes still more brutal towards tax payers, than the usurious interest charged. It is publishing, and thus exposing to ridicule, every man who does not pay by a certain time."—*Iowa State Register*, Vol. XXIII, No. 50, February 27, 1884.

<sup>258</sup> *Laws of Iowa*, 1884, p. 210.

<sup>259</sup> *Code of Iowa*, 1873, p. 147.

<sup>260</sup> *Laws of Iowa*, 1884, pp. 209, 210.

<sup>261</sup> See Chapter XIV.

<sup>262</sup> It was three per cent in the *Code of 1873* and was reduced to one per cent as already noted in the semi-annual tax law.—*Laws of Iowa*, 1884, p. 210.

<sup>263</sup> *Iowa State Register*, Vol. XXIII, No. 36, February 10, 1884.

<sup>264</sup> See above, p. 40.

<sup>265</sup> Reference is made especially to the taxation of insurance companies one per cent for county and one per cent for State purposes on the amount of premiums taken by them during the year previous to the listing.—*Code of Iowa*, 1851, p. 78.

<sup>266</sup> See chapter dealing with these subjects. Also Vol. II.

<sup>267</sup> An analysis and classification of the sources of Iowa revenue history has impressed the writer with the value of the synopsis given in the text. Up to 1851 our material may be conveniently grouped in the general narrative. From 1851 to 1884 we note a gradual transfer from the general narrative to an historical study of specific problems in taxation. Since 1884 the history of taxation in Iowa belongs almost entirely to part II of this volume and part III of Vol. II.

<sup>268</sup> *Report of Auditor of State*, 1885, p. 132.

<sup>269</sup> See Chapter V.

<sup>270</sup> *Report of Auditor of State*, 1885, p. 129.

<sup>271</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 328.

<sup>272</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 328.

<sup>273</sup> See Vol. II, Chapter XXV.

<sup>274</sup> Speaking of undervaluation and discriminating assessments the Governor says: "In respect to the valuation of the different kinds of property for taxation, various opinions obtain, but all agree that there is no equality, either as between individuals or communities, nor under existing laws, can it be expected. The equalizations provided for, however honestly made, are neither just nor equitable, and the result is, taxation is not fairly equal, even as it affects real estate; but when attention is directed to personalty, the most glaring inequalities are manifest, example[s] of which are mentioned in the report."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, pp. 327, 328.

<sup>275</sup> See above, p. 170.

<sup>276</sup> *Report of Auditor of State*, 1887, p. 1.

<sup>277</sup> See above, p. 60.

<sup>278</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 79.

<sup>279</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 155.

<sup>280</sup> See Chapter V.

<sup>281</sup> *The Iowa State Register*, March 15, 1890.

<sup>282</sup> *Laws of Iowa*, 1890, p. 169.

<sup>283</sup> "At present in this State", wrote Governor Boies, "we are practically without any legal system for the valuation of real property in assessing it for taxation because by common consent the law in this respect is totally ignored by those whose duty it is to value the same.

"We are equally destitute of any practicable method by which all of the personal property of the State liable to taxation can be brought to light, or the value ascertained of that which is discovered.

"If the custom which has been adopted of assessing property at a fraction of its value is to be continued, it should be so provided by law and a uniform rule established on this subject.

"It is, however, in my judgment, a matter for unlimited regret that we have permitted a plain provision of the statute fixing a definite rule for the valuation of all property to be superceded by a custom as variable as the whims of men and sometimes as destitute of the spirit of fairness, as it is of law, for its support.

"That some changes in our present methods of levying and collecting the taxes of the State should be adopted seems apparent.

"I do not, however, believe it practicable for members of the Legislature in the brief time allotted them during a session thereof, with the constant and varying demands upon their time which their duties necessarily impose, to formulate and perfect a system that would be a substantial improvement upon that now in force.

"If this is to be accomplished at all it must come through the aid of a commission appointed by the Legislature and clothed with power to perfect a bill and report it to some future session of that body for final action thereon."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 342, 343.

<sup>284</sup> Concerning the assessment of real estate and personal property the Auditor said:

"The assessment of real estate and personal property is the vexed question which has been a source of great perplexity to every officer who has had the burden of looking after the revenue of the State laid upon him, and the many efforts to equalize the same have been futile. Our laws require that all property shall be assessed at its actual cash value, but while thus explicit its violation has been notorious and almost universal, however in varying degree, and no two counties bear exactly the same proportion of the State tax. I am of the opinion that the average assessment of real estate and personal property in the State does not exceed 25 per cent of its actual cash value, and the duty of the State Board of Equalization, viz., the adjustment of the inequalities of assessment, is made practically an



impossibility, for the reason that the percentage assessed differs as frequently as there are counties in the State.

“In contemplating this subject as I have for the past five years, I have been able to think of but one remedy that seemed practical to me, and that is the lowering of the maximum rate of taxation to such a degree as will force the raising of values to their proper position in order to be able to realize the necessary amount of revenue for county purposes. Then might we hope for an equitable burden of taxation throughout the state, and then would our fair Iowa be placed in the justly proud position of being rated for all she is worth, with a low rate of taxation, and the bugabear which undoubtedly has kept many a thrifty man from settling within our borders, viz, a high rate of taxation be forever buried out of sight and no one hurt by it.”—*Report of Auditor of State, 1891*, pp. 3, 4.

<sup>285</sup> The following communication to *The Iowa State Register* from Waterloo signed “R. P. S.” contains a careful analysis of the situation:

“WATERLOO, Feb. 18.—Editor Register: The farmers are complaining against the injustice of the present methods of assessment and taxation of property in Iowa. The following are the principal provisions of the Iowa law, which relates to the assessment of property for the purpose of taxation. After naming certain kinds of property that are exempt from taxation, the law requires: 1st, ‘That all other property real and personal, shall be taxed,’ 2d. ‘That the term credit includes every claim and demand for money, labor or other valuable thing, and all money or property of any kind secured by a deed, mortgage or otherwise.’ 3d. ‘All property of railroad, telegraph and express companies shall be assessed for taxation and shall be subject to the same levies as the property of individuals.’ 4th. ‘Real property shall be assessed at its true cash value.’ 5th. ‘Depreciated bank notes and the stock of corporations and companies shall be assessed at their cash value, and credits shall be listed at such sum as the person listing them believes will be received, or can be collected thereon.’ 6th. ‘In estimating the value of the goods of a merchant, or the stock of a manufacturer, the average value of such property shall be taken during the next year previous to the time of assessing such property.’ 7th. ‘All shares of banking associations organized within this state, shall be included

in the valuation of the personal property of such person or body corporate in the assessment of taxes, but not at a greater rate than is assessed on other moneyed capital in the hands of individuals.' 8th. 'Any person acting as the agent of another, and having in his possession or under his control, any money, notes and credits, or personal property belonging to such other person, with a view to investing or loaning, or in any other manner using the same for pecuniary profit, shall be required to list the same at the real value.' No sane man can complain that the law is not reasonable and just. But have the assessors and boards of county supervisors of Iowa been governed by the requirements of the law? is an important question. The first duties of an assessor are to give a bond for the faithful performance of his work, and take an oath that he will assess the real and personal property in his township, city or ward as required by law. As the law requires that all real and personal property within the State shall be assessed at its real or cash value, we would like to know how many Iowa assessors are not guilty of the crime of perjury? But the county boards of supervisors are not more innocent than the assessors. The law requires that the board of supervisors of each county shall at their meeting in January in each year classify the several descriptions of property to be assessed, for the purpose of equalizing the assessments. To show how extremely conscientious the members of the county boards of supervisors are, I will offer the following items taken from the printed instructions of a certain board of supervisors in northern Iowa, which were prepared last month and given to the assessors to guide them in fixing values upon the different kinds of personal property in their townships, wards, etc. They are as follows:

Work horses .....	\$25.00 to \$75.00
Milk cows .....	5.00 to 10.00
Four year old steers.....	10.00 to 25.00
Wagons. . . . .	15.00 to 35.00
Moneys and credits.....	40 per cent
Merchandise. . . . .	40 per cent
All other personal property.....	40 per cent
Capital used in manufactures.....	40 per cent

"When a man reports \$1,000 in gold coin or in merchandise, and the assessor enters only \$400 against him to be taxed, a very big

screw is loose and the machine should be stopped. No board of county supervisors should be allowed to classify the several descriptions of property to be assessed for the purpose of equalizing such assessments; but the assessors should be required to meet at the county audito[r]'s office on a certain day in January of each year, and the auditor should be required to instruct them in regard to their duties as assessors, and give each of them a printed copy of the law which relates to the assessments of real and personal property. Section 832 of the code should not be repealed, as it is necessary that each board of county supervisors should equalize the assessments after the assessors have performed their work."—*The Iowa State Register*, February 21, 1892.

<sup>286</sup> *Laws of Iowa*, 1892, p. 100.

<sup>287</sup> The following is a complete copy of the act creating the tax commission:

"AN ACT to provide a commission to studiously and carefully examine the revenue and taxation laws of the state and report necessary and desirable changes to the Twenty-fifth General Assembly.

"WHEREAS, The methods of raising revenue are generally recognized as being burdensome, unequal, and unfair in their operations, and

"WHEREAS, Some system of taxation should be devised that will command the respect and confidence of the people, and,

"WHEREAS, It is impossible to amend or change the present revenue laws without re-writing, revising and reforming the same, and such work is impracticable during a session of any general assembly, therefore:

"Be it enacted by the General Assembly of the State of Iowa:

"Section 1. That a commission consisting of four persons to be named by the executive council be and is hereby constituted to studiously and carefully examine the revenue and taxation laws of the state and report necessary and desirable changes to the twenty-fifth general assembly; *provided*, that not more than two members of the commission be of the same political party. That no member of the twenty-fourth general assembly shall be a member of the commission. *And provided further* that the agricul-



tural interests of the state shall be represented upon said commission in that ratio which the assessment of the agricultural property bears to the assessment of all other taxable property in the state as is shown by the assessment of 1891.

"Sec. 2. That each member of said commission be allowed five dollars per day for each and every day necessarily and actively employed on the subject, and necessary traveling expenses to be evidenced by vouchers, duly filed with the secretary of state: *Provided*, that no member of said commission shall receive pay for more than thirty days.

"Sec. 3. The executive council shall audit all bills connected with said commission and when approved the secretary of state shall draw orders on the auditor for the amount, who in turn shall issue orders on the treasurer, who shall pay the same out of any funds of the state not otherwise appropriated.

"Sec. 4. Said commission shall begin its labors on or before August 1, 1892, complete its report and file same with Secretary of State by July 1, 1893.

"Sec. 5. The Secretary of State shall cause the report named in section 4 to be printed for information, and as soon as practicable, mail a copy to each member of the Twenty-fifth General Assembly.

"Sec. 6. Vacancies in said commission by reason of death, removal from the state, inability or refusal to act, shall be filled by appointment by the executive council.

"Sec. 7. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa."—*Laws of Iowa*, 1892, pp. 100, 101.

<sup>288</sup> *The Iowa State Register*, March 23, 1892.

<sup>289</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 6.

<sup>290</sup> Many features of the report and bill will be considered under the heading of special problems in taxation.

<sup>291</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 18.

<sup>292</sup> The provision of the proposed bill on this point reads in part as follows:

“Real property shall be assessed at its fair cash value, which value shall not be measured or estimated upon values at forced sale, but it shall be estimated according to the ordinary selling price upon the usual terms of credit, and shall, so far as possible, be based upon the prices at voluntary sale, in said assessment district, or its vicinity during the preceding two years.”—*Report of the Revenue Commission of Iowa*, 1893, p. 30.

<sup>293</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 40.

<sup>294</sup> *Report of Auditor of State*, 1893, p. 8.

<sup>295</sup> *The Council Bluffs Nonpareil*, Vol. XXXIII, No. 54, March 7, 1894.

<sup>296</sup> *The Council Bluffs Nonpareil*, Vol. XXXIII, No. 54, March 7, 1894.

<sup>297</sup> On this point Senator Harsh said that “the aim is to reform the tax laws of the state by bringing to light all the property in the state, changing the assessment from the 25 to 50 per cent rule now obtaining to the true cash value of property and thereby forcing down the levies, and, as a consequence, reduce taxation. The present nominally high rates of levies repel those who would settle in Iowa, as they do not stop to inquire further, but from the fact of the levies being high they conclude that taxation is high. They do not stop to consider that our valuations are absurdly low. We could, perhaps, stand that, but the operation of our present law make[s] the burdens of taxation unequal. One man is assessed at 25 per cent of the value of his property, while his neighbor either escapes altogether, or is assessed at 30 per cent, while still another is assessed at 60 per cent. Some property pays twice, while other property escapes entirely. This bill aims to make every one contribute his full share towards defraying the burdens of government. If all are made to pay equally according to value of property, the burdens on each will be light, and soon we will have the name in Iowa of having light levies for purposes of taxation.

“What methods does the bill provide to accomplish all this?

“Its provision compelling the assessors to list property at actual value, does away with the guessing heretofore indulged in, and

makes it easier to get all the property. The assessor as now, holds his office for two years, but puts in his first year assessing personal property, thereby the better fitting himself for his duties. He is required to personally go and inspect each piece of property and not sit around village stores and offices and take the owner's word for it. The owner of property must make out a list and swear to it, and false swearing in this respect is declared by the bill to be a misdemeanor, which means a year in jail or a heavy fine. A failure to make out the list makes the party liable to have 30 per cent added to the sum, which the assessor from all the information he can get fixed upon and in case of an officer of a corporation, a fine of \$100 per day for every day he fails to furnish the list is imposed. Assessors in turn have to swear that they have assessed all the property in their district at actual value, and the rules laid down are so strict that there is no possible evasion. The provisions in this regard are copied after laws of other states where such statutes work well."—*The Council Bluffs Nonpareil*, Vol. XXXIII, No. 54, March 7, 1894.

<sup>298</sup> *Senate Journal*, 1894, p. 403.

<sup>299</sup> *The Iowa State Register*, March 13, 1894.

<sup>300</sup> *The Iowa State Register* made a vigorous attack upon the measure. In an editorial entitled "THE TAX-EATERS REVENUE BILL", which appeared on the following day the editor said: "The farms and live stock of Iowa and the railways are assessed now at three hundred and ninety million dollars and all other property of the state at only one hundred and seventy-six million dollars. By the last census forty-nine per cent of the population lived in towns and cities and fifty-one per cent lived on the farms. The growth of the cities is greater than the growth of the rural population and it is safe to say that now at least one-half of the people live in towns and cities. It will thus be seen that more than two-thirds of the state and county taxes are paid by the farmers and the railways. The present limit of taxation, on the assessed value as it now stands, is ample to raise all the revenue necessary to carry on the state and county governments if economically expended. But the towns and cities are hungry for more money than they can now raise by the full limit of the levy



and so the present revenue bill, now pending in the senate, proposes to raise the assessment of all property in the state to its full cash value.

“The farms are now assessed at an average of \$8.44 per acre. If they are put to the full cash value they must go to \$35 or \$40 per acre, but the town and city property will never be proportionately raised and the burden of state and county taxes will be still more largely put upon the farmers. When the farms shall be raised to their full cash value they alone without the railways, will pay more than two-thirds of all state and county taxes. Any increase of the assessed value of property will breed extravagance in state and county expenditures and greatly increase the corrupt tax-eating now going on in the cities. If the cities want more taxes let them hunt out the moneys and credits and stocks and tax them, for there is where the city wealth is now hidden. The farms are in plain sight and so are all the farmers’ live stock and utensils.

“The assessed value of the property of the state has steadily increased under the present method of assessment with the increase of population and wealth. In 1870 the total value was two hundred and ninety-four million dollars; it is now five hundred and sixty-six million dollars. During all this time nearly all property has been assessed at about one-quarter to one-third of its cash value. This is in accordance with the universal custom of all the states for the last one hundred years, except three or four that are now trying the full value plan. Every state in the Union has always had a limit on the power of taxation and also a requirement that property should be assessed at its cash value, but by common consent the assessed value in all the states has not been above one-third of the cash value. Why is it that property has been so long universally assessed at one-third to one-quarter its full cash value? The answer is plain. All state, county and city governments have felt that the tendency is to over tax the people and the best method manifestly is to keep the assessment low to the end that extravagance in public expenditures shall be kept at the lowest possible point.—*The Iowa State Register*, March 14, 1894.

<sup>301</sup> *Report of Auditor of State*, 1895, p. 4.

<sup>302</sup> “It is a notorious fact”, wrote Governor Jackson in his message, “that for all these years under our peculiar law, millions

of dollars of personal and other property has evaded the assessor, thereby depriving the state of a rightful revenue and unjustly distributing the burden of taxation. This situation is not only unfortunate, but it is unbusiness-like and unfair. It is unfair to hamper the growth and development of this great and prosperous young state by publishing to the world an extremely high rate of taxation on an extremely low assessed valuation of property. It is unfair to cripple the usefulness of our great state institutions by hampering them with less appropriations than their necessities actually require. The highest welfare of our state demands a thorough and careful revision of our revenue laws to the end that all property shall pay its just share of the expenses of the state, and that sufficient revenue shall be raised to maintain our state in the position in which it belongs, at the head of the progressive and intelligent states of our nation. In this direction I desire to call your attention to the report of the revenue commission authorized by the acts of the Twenty-fourth General Assembly."—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, pp. 25, 26.

<sup>303</sup> The *Code of Iowa*, 1897, was enacted at an extra session of the Twenty-sixth General Assembly which adjourned July 2, 1897.

<sup>304</sup> *Code of Iowa*, 1897, p. 457.

<sup>305</sup> See Vol. II, Chapter XXIV.

<sup>306</sup> No reference is made in this connection to a number of laws that were passed relating to special problems in taxation.

<sup>307</sup> Under the *Code of Iowa*, 1873, assessors were elected annually. The change to the biennial system was made later.—*Code of Iowa*, 1873, p. 104.

<sup>308</sup> The following is a copy of *Joint Resolution*, No. 4, by Jackson:

"Section 1. Within twenty days after this act takes effect there shall be appointed in the manner hereinafter provided, nine persons whose duty it shall be to inquire into the subject of assessment and taxation for state and local purposes the operation and effect of the laws relating thereto and the expediency of revising and amending such laws so as to establish a more equal and just system of raising necessary public revenues and to report to the next legis-

lature on or before January 15, 1909, the result of their investigation, together with bills to carry out the recommendation of the commission in regard to the revision and amendment of the tax laws of the state. Three of the persons shall be appointed by the Governor; three shall be appointed from the senate by the president of the senate; and three from the house by the speaker of the house. The members of the commission shall not receive a salary, but each shall be entitled to their actual and necessary expenses incurred in the performance of his duties under the provision of this act, to be paid by the state treasurer on the audit and warrant of the comptroller.

"Sec. 2. Said commission hereby is authorized and empowered to require and enforce the attendance of witnesses and the production of books and papers and to administer oaths and to employ counsel, experts, stenographers, clerks and such other employees as may be necessary for the purpose of their investigation and report.

"Sec. 3. The members of such committee shall receive while in the performance of their duties mileage in the sum of five (5) cents per mile, each way, and the actual and necessary expenses incurred, to be paid out of any money in the treasury not otherwise appropriated, on vouchers filed with the auditor of state; provided the aggregate expenditures of said committee shall not exceed the sum of three thousand (\$3,000) dollars."—*Joint Resolution*, No. 4, 1907, by Jackson.

<sup>309</sup> *Senate Journal*, 1909, p. 426.

<sup>310</sup> The following is a copy of the bill introduced by Senator Savage:

"Section 1. The Governor is hereby authorized and required, on or before July 1, 1909, to appoint a tax commission of five members, citizens of the State, to constitute a tax commission. Any vacancy occurring in said commission shall be filled by the Governor by the appointment of some other citizen of the State.

"Sec. 2. It shall be the duty of said commission to examine into the tax assessment, tax levy and tax collection laws of the State of Iowa, and of other states, and use such means and make such investigations as it shall deem best to secure information, for



the purpose of ascertaining whether the present laws of the State of Iowa regulating the assessment, levying and collection of taxes may not be improved, and to report its findings together with such recommendations as it may deem desirable, to the Governor not later than October 1, 1910, together with bills intended to carry its recommendations, and a detailed statement of the expenses of the commission as provided herein. The report and recommendation of the commission shall be transmitted by the Governor to both branches of the General Assembly of 1911, and copies of said report and recommendations shall be printed by the State Printer and bound by the State Binder in such quantity as the Executive Council may determine and a copy sent by the Governor to each member of the General Assembly by December 1, 1910.

"Sec. 3. The commission shall meet at the Capitol in Des Moines on or before August 1, 1909, and organize by the election of one of its members as president, one for vice-president, and may select a secretary from outside its membership and prescribe the duties of that officer and fix his compensation. The commission may secure such clerical assistance as it may need to carry on the work provided for herein and fix the compensation for such services. Other meetings of the commission may be held at the Capitol from time to time or at such other places as the commission may determine.

"Sec. 4. The Executive Council shall assign a room in the Capitol for the use of the commission, not otherwise occupied, and shall also provide stationery and books for the use of the commission as may be needed, on requisition signed by the president or secretary of the commission.

"Sec. 5. The members of the commission shall each receive as compensation for their services ten dollars per day for time actually employed in the labor of said commission together with their actual traveling and personal expenses while engaged in the work of the commission; provided, however, that the expense of the commission shall not exceed the amount herein appropriated. The expense bills of the commission shall be paid on properly attested vouchers, the same as expenses of other commissions or departments of State.

"Sec. 6. To carry the provisions of this act into effect, there

is hereby appropriated out of any funds in the State treasury, not otherwise appropriated, the sum of twelve thousand dollars (\$12,000.00), or so much thereof as may be necessary.

"Sec. 7. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Register and Leader and Des Moines Capital, newspapers published in Des Moines, Iowa."—*Senate File*, No. 231, 1909.

<sup>311</sup> *House Journal*, 1909, p. 125.

<sup>312</sup> *House Journal*, 1909, p. 1355.

<sup>313</sup> The following is a copy of the Harding bill:

"Section 1. There is hereby created a legislative tax commission consisting of five members, two of whom shall be members of the House of Representatives and appointed by the Speaker, one of whom shall be a member of the Senate and appointed by the President of the Senate, and two of whom shall be appointed by the Governor of the State.

"Sec. 2. Said commission shall have the authority to employ such clerical and legal assistance as may be required to properly perform the duties hereby imposed upon the said commission, which together with the necessary expenses incurred therein, by said commission, shall be paid out of the treasury upon the approval of the Executive Council upon the filing with the Auditor of State a detailed and itemized statement duly verified of the same.

"Sec. 3. Said commission or a majority thereof, in case of the absence of any member, shall constitute a quorum, who shall as soon as practicable after their appointment but not later than the first day of May, 1909, meet in the Capitol building and organize by the election of one of its members as chairman, who shall preside at all meetings of said commission, if present, and in his absence the chairman shall be elected from those present. Said commission shall meet from time to time as determined by said body, or on call of the chairman.

"Sec. 4. Said commission shall have power to thoroughly investigate and enquire into the subject of assessments and taxes for State and local purposes, the operation and effect of the laws relating thereto, and the expediency of revising and amending

such laws, so as to establish a more equal and just system of raising the necessary public revenues. Said commission shall on or before December 1, 1910, file with the Auditor of the State its report which shall be printed by him for distribution to the members of the next General Assembly, which report shall contain a detailed statement of the expenses and the result of its investigation, together with such recommendations and conclusions as will improve and perfect the revenue laws of the State, together with bills to carry out the recommendations of the commission in regard to the revision and amendment of the revenue laws of the State. And the said commission is hereby authorized and empowered to require and enforce the attendance of witnesses and the production of books and papers, and any member of the commission is hereby authorized to administer oaths.

"Sec. 5. The members of the commission shall receive as compensation for said services ten (\$10) dollars per day each together with their traveling and personal expenses while actually engaged in such work to be paid from the treasury upon an order from the Executive Council.

"Sec. 6. The amount of money authorized by this act for the purpose herein provided for shall not exceed fifteen thousand (\$15,000) dollars which sum is hereby appropriated from the money in the State treasury not otherwise appropriated.

"Sec. 7. The printing and binding of said report and all expenses connected therewith shall be at the cost of the State as provided by law.

"Sec. 8. This act being deemed of immediate importance shall be in full force upon its publication in the Register and Leader and the Des Moines Capital, newspapers of Des Moines, Iowa."—*House File*, No. 3, 1909.

<sup>314</sup> *Laws of Iowa*, 1909, p. 79.

<sup>315</sup> See Chapters VI-XV; also Vol. II, Chapters XVI-XXIII.

## CHAPTER V

<sup>316</sup> *Report of Treasurer of State*, 1908, p. 261.

<sup>317</sup> *Laws of Iowa*, 1868, p. 198.



- <sup>318</sup> See chapters dealing with these subjects.
- <sup>319</sup> See above, p. 170.
- <sup>320</sup> See Chapters VI-XV; Vol. II, Chapters XVI-XXIII.
- <sup>321</sup> This table was compiled from data given in the biennial reports of the Auditor of State, 1873-1908.
- <sup>322</sup> The amount for the period 1879-1881 was \$1,928,849.32.
- <sup>323</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 34.
- <sup>324</sup> *Report of Treasurer of State*, 1897, pp. 23-25.
- <sup>325</sup> *Report of Auditor of State*, 1885, p. 128.
- <sup>326</sup> *Report of Auditor of State*, 1885, p. 128.
- <sup>327</sup> This data was obtained from the Federal Census reports and the *Report of Auditor of State*, 1906, pp. 123, 124.
- <sup>328</sup> *Report of Auditor of State*, 1908, p. 190.
- <sup>329</sup> This statement was made to the writer by prominent members of the Twenty-sixth General Assembly. The Code of 1897 was adopted by a special session of that body.
- <sup>330</sup> *Code of Iowa*, 1897, p. 457.
- <sup>331</sup> The writer does not wish to be understood as claiming that this is an accurate ratio. Statistics along this line are not sufficiently trustworthy to make such a statement possible. What we do wish to state is that, as far as data can be secured for all classes of property, the statement in the text is fairly representative of actual conditions.
- <sup>332</sup> *Special Census Reports, Wealth and Debt and Taxation*, 1904, pp. 42, 43.
- <sup>333</sup> Not given in Tables III and IV.
- <sup>334</sup> *Report of Auditor of State*, 1850 p. 29.
- <sup>335</sup> See Table III giving data for 1861. An estimate is made for 1860.
- <sup>336</sup> See Table IV for assessed valuation from 1870 to 1904 inclusive.

- <sup>337</sup> See above, p. 40.
- <sup>338</sup> The assessment of moneys and credits will be considered in a separate chapter. See Chapter XIV.
- <sup>339</sup> *Report of Auditor of State*, 1908, p. 194.
- <sup>340</sup> *Report of Auditor of State*, 1893, pp. 82-85.
- <sup>341</sup> *Report of Auditor of State*, 1885, p. 129.
- <sup>342</sup> Table prepared by the Secretary of the Executive Council.
- <sup>343</sup> Table VIII was given to the writer by Governor B. F. Carroll. The data therein contained was submitted to the Executive Council by T. A. Polleys to aid said council in the valuation of railroad property.
- <sup>344</sup> *Report of Ohio Tax Commission*, 1906, p. 33.
- <sup>345</sup> *Report of Minnesota Tax Commission*, 1907, p. 27.
- <sup>346</sup> *Report of Minnesota Tax Commission*, 1908, p. 57.

## CHAPTER VI

- <sup>347</sup> Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, pp. 67-81, 197-204.
- <sup>348</sup> *Constitution of Iowa*, 1846, Art. IX, Secs. 1 and 2.
- <sup>349</sup> *Code of Iowa*, 1851, pp. 378, 379.
- <sup>350</sup> *Code of Iowa*, 1851, p. 378.
- <sup>351</sup> *Code of Iowa*, 1851, p. 76.
- <sup>352</sup> *Code of Iowa*, 1851, pp. 77, 79.
- <sup>353</sup> *Constitution of Iowa*, 1857, Art. VIII, Sec. 5.
- <sup>354</sup> Among other things the Constitution carefully defines the form and security of all bills, notes, and paper credits designed to circulate as money; gives billholders preference over other creditors in case of insolvency; and prohibits the suspension of specie payments by banking institutions.—*Constitution of Iowa*, 1857, Art. VIII, Secs. 8-11.
- <sup>355</sup> *Laws of Iowa*, 1858, pp. 215-234.

- <sup>356</sup> *Laws of Iowa*, 1858, p. 219.
- <sup>357</sup> *Laws of Iowa*, 1858, pp. 125-152.
- <sup>358</sup> *Laws of Iowa*, 1858, pp. 142, 143.
- <sup>359</sup> *Senate Journal*, 1866, p. 261.
- <sup>360</sup> *Daily Iowa State Register*, Vol. V, No. 54, March 21, 1866.
- <sup>361</sup> *Senate Journal*, 1866, p. 536.
- <sup>362</sup> *Senate Journal*, 1866, p. 537.
- <sup>363</sup> This section defines the duties of an agent in regard to listing notes, credits, personal property, etc., at their real value, making said agent liable for the tax.—*Revision of 1860*, p. 112.
- <sup>364</sup> *Laws of Iowa*, 1866, p. 115.
- <sup>365</sup> *Hubbard et al. vs. The Board of Supervisors of Johnson County*, 23 Iowa 130.
- <sup>366</sup> 3 Wallace 573.
- <sup>367</sup> *United States Statutes at Large*, Vol. XIII, p. 112.
- <sup>368</sup> 2 Black 620.
- <sup>369</sup> *Hubbard et al. vs. The Board of Supervisors of Johnson County*, 23 Iowa 135.
- <sup>370</sup> 23 Iowa 152, 153.
- <sup>371</sup> *Senate Journal*, 1868, pp. 268, 269.
- <sup>372</sup> *Laws of Iowa*, 1868, p. 214.
- <sup>373</sup> *Morseman vs. Younkin et al. Downs vs. The Same. Davenport vs. The City of Davenport. Gifford vs. The Same.* 27 Iowa 350.
- <sup>374</sup> 23 Iowa 130.
- <sup>375</sup> *Constitution of Iowa*, 1857, Art. VIII, Sec. 12.
- <sup>376</sup> 27 Iowa 353.
- <sup>377</sup> *Laws of Iowa*, 1870, p. 23.
- <sup>378</sup> *Laws of Iowa*, 1870, p. 69.
- <sup>379</sup> *United States Statutes at Large*, Vol. XIV, p. 146.



<sup>380</sup> 31 Iowa 18.

<sup>381</sup> 35 Iowa 276, 277.

<sup>382</sup> *Laws of Iowa* (Public), 1874, p. 58.

<sup>383</sup> *Laws of Iowa* (Public), 1874, p. 55.

<sup>384</sup> 43 Iowa 600.

<sup>385</sup> 43 Iowa 601.

<sup>386</sup> *Code of Iowa*, 1873, p. 136.

<sup>387</sup> 54 Iowa 609.

<sup>388</sup> 64 Iowa 140.

<sup>389</sup> Regarding the taxation of savings banks on "paid up capital" and the exemption of United States bonds Judge Adams says:

"If any advantage accrues to savings banks from the mode of assessment which has been provided, it appears to us to be a mere incident of the mode, and evincing no desire to favor savings-bank capital. The statute provides for taxing savings banks by assessing the 'paid up capital'. This, in the outset at least, should be equivalent to assessing the shares. Later it might not be strictly so. The shares might come to have something of value by reason of good will and accumulated business. But we cannot regard that of sufficient importance to justify us in making the ruling which the appellant contends for. Property employed in trade and manufactures by incorporated persons is not taxed with reference to any such consideration. The taxation of shares in incorporated companies, which may have something of value by reason of good will, is not, we think, regarded as resulting in inequality of taxation as between shareholders and others owning property similarly employed. Some slight latitude is allowed in modes of assessment, demanded by what are deemed controlling considerations, even though they should not result in absolute equality of taxation.—*City of Dubuque v. Railroad Co.*, 47 Iowa 196. . . .

"We come, now, to the consideration that the taxation of national-bank shares is practically a taxation of its capital, including its non-taxable bonds. It is assumed, and perhaps correctly, that savings banks are entitled to a deduction for non-taxable

securities held by them as a part of their capital. In respect to this we have to say, in the first place, that the national banking act contemplates that shares may be taxed, notwithstanding the practical result above mentioned. We are aware that it might be replied to this, so far as savings banks are concerned, that, if national-bank shares are taxed, savings-bank shares should be also. But this would not obviate the difficulty in question. Individual owners of national bonds cannot be taxed upon them. If it is objectionable to tax shares of national banks, while savings banks are taxed merely upon their capital, with non-taxable securities deducted, then national-bank shares cannot be properly taxed while individuals hold such securities. If there is any seeming hardship in this, it should be remembered that national banks have the advantage of their bills put in circulation, representing a large part of their capital, and which are not specifically taxable.

"The claim that national-bank shares cannot properly be taxed, unless the shares of savings banks holding non-taxable securities are also taxed, is substantially disposed of, we think, by *People v. Commissioners*, 4 Wall., 256. In our opinion, the judgment of the circuit court must be **AFFIRMED**."—64 Iowa 143-146.

<sup>390</sup> *Laws of Iowa*, 1890, p. 65.

<sup>391</sup> 86 Iowa 28.

<sup>392</sup> Section 814 provides for the deduction of lawful debts from the credits held by a taxpayer.—*Code of 1873*, p. 136.

<sup>393</sup> *People vs. Weaver*, 100 U. S. 539; *Supervisors vs. Stanley*, 105 U. S. 305.

<sup>394</sup> *Boyer vs. Boyer*, 113 U. S. 695.

<sup>395</sup> *Constitution of Iowa*, 1857, Art. III, Sec. 30.

<sup>396</sup> Regarding this classification the court said:

"If it be true that shareholders of the capital stock of banks which fall within the provisions of the act under consideration cannot deduct their debts from the amount of their stock for the purposes of taxation, is the act valid? We are of the opinion that it is. The fact that national banks and banks organized under the general incorporation laws of this state transact similar kinds of business does not show that they must be taxed according to the

same plan. National banks are organized and exist by virtue of acts of Congress. They are instruments of the general government, designed to aid it in the administration of a branch of the public service. The states cannot exercise control over them excepting with the consent of congress, expressed or implied, and the power of the states to tax them is derived from that source.

*Bank v. Dearing*, 91 U. S. 29; *First Nat. Bank of Albia v. City Council of Albia*, *supra*. They are subject to regulations and limitations of power which have no application to state banks, and constitute a class of corporations which may be properly subjected to a plan of taxation different from that applied to state banks. The latter constitute another class, with distinct powers and privileges, and subject to different restrictions, and may properly be subject to a plan of taxation applicable only to that and similar classes. By section 28 of chapter 60 of the Acts of the Fifteenth General Assembly, the paid-up capital of all savings banks organized and doing business under that act is taxed to the banks, and not to the stockholders; but in *Davenport Nat. Bank v. Board of Equalization*, 64 Iowa, 140 (19 N. W. Rep. 889), that was held not to be a discrimination against national banks, and it was said, as a general proposition, that a state may provide for the assessment of savings-bank capital, as well as other property, in such mode as it may deem most convenient and effective for the collection of its revenue. In the case of *Hubbard v. Board*, 23 Iowa, 143, a distinction based upon *Van Allen v. Assessors*, 3 Wall. 573, between taxing the capital stock and the shares of the capital stock, of a bank was recognized, but it cannot with any justice be said that inequality of taxation results from taxing the shares separately to their owner and taxing them collectively to the bank. The aggregate capital of an incorporated bank is virtually owned by its stockholders, and each share represents a definite part of the whole. See *Iowa State Sav. Bank v. City Council of Burlington* (Iowa) 61 N. W. Rep. 851; *First Nat. Bank of Albia v. City Council of Albia*, *supra*; *Equitable Life Ins. Co. v. Board of Equalization of Des Moines*, 74 Iowa 179 (37 N. W. Rep. 141). Therefore, the aggregate of the taxes levied upon the separate shares would be the same as those levied upon the separate shares taken together, or upon the capital stock. . . .



“If the owner of shares of the capital stock of a state bank may not deduct from their amount the debts he owes, it may be that he is to that extent required to pay more taxes than he would as the owner of shares of the capital stock of a national bank; but if that be so, it is a mere incident, and not a necessary result, of the statute. It is, at most, one of the conditions attached to the ownership of stock in state banks which the shareholder who owes debts must be held to have assumed voluntarily; for no one is compelled to be a shareholder of a state bank, and exact equality in the practical workings of any system of taxation is not attainable, and a plan for the collection of revenue which the general assembly has deemed it expedient and wise to adopt ought not to be defeated because some taxpayers voluntarily place themselves in such condition that they are required to contribute more than their just share to the public revenue.”—96 Iowa 242-245.

<sup>397</sup> *Code of Iowa*, 1897, p. 465.

<sup>398</sup> *Code of Iowa*, 1897, p. 466.

<sup>399</sup> *Laws of Iowa*, 1906, pp. 34, 35.

<sup>400</sup> 133 Iowa 252.

<sup>401</sup> In this important opinion Judge McClain says:

“That there may be a distinction in method of assessment between one whose property is invested in an individual or partnership business, and another whose property is represented by shares of stock in a corporation, is too clear to require extended argument, and that such a distinction in method of assessment would not constitute a discrimination against national banks which are assessed in the same way as other banking corporations is put at rest by decisions of the Supreme Court of the United States, among which may be cited *Mercantile Bank v. New York*, 121 U. S. 138 (7 Sup. Ct. Rep. 826, 30 L. Ed. 895), *Davenport Bank v. Davenport Board of Equalization*, 123 U. S. 83 (8 Sup. Ct. Rep. 73, 31 L. Ed. 94); *First National Bank v. Chapman*, 173 U. S. 205 (19 Sup. Ct. Rep. 407, 43 L. Ed. 669). It is not difference in method of assessment which is prohibited by the national banking act, already referred to, but discrimination against the holders of stock in national banks.

“Our conclusion briefly is, first, that in estimating the value of

shares of stock in national, state, or savings banks, the value of United States bonds owned by the banks may be taken into account; second, that the taxation of national banks by valuation of the shares of stock owned therein (such shares being assessed to the stockholders at the place where the bank is located) is substantially the same as that authorized with reference to state and savings banks, which are directly taxed by valuation of the aggregate shares thereof (United States bonds being included in determining the valuation of the aggregate shares); third, that the taxation of private banks and bankers on the aggregate value of the property invested in the business, while incorporated banks, including national banks, are taxed by means of an assessment of the value of the corporate shares, does not constitute a discrimination as against national banks, although in the one case United States bonds are treated as exempt and deducted from the aggregate value of bonds and stocks, while in the other case the value of the corporate shares is determined by including the value of United States bonds".—*National State Bank et al vs. The Mayor and City Council of Burlington, Iowa, M. P. Sharts, County Auditor, and J. E. Rhein, County Treasurer*, 119 Iowa 700, 701.

## CHAPTER VII

<sup>402</sup> The section of the Code relating to the taxation of insurance companies reads as follows:

"Insurance companies of every description, except mutual insurance companies, existing in other states and operating in this, shall be taxed one per cent. for county purposes and one per cent. for state purposes upon the amount of the premiums taken by them during the year previous to the listing, in the county where the agent conducts that business; and the agent shall render the list and shall be personally liable for the tax, and if he refuses to render the list or to swear as herein required the amount may be assessed according to the best knowledge and discretion of the assessor."—*Code of Iowa*, 1851, p. 78.

<sup>403</sup> *Laws of Iowa*, 1858, p. 309.

<sup>404</sup> *Revision of 1860*, p. 111.

<sup>405</sup> *Laws of Iowa*, 1868, p. 198.

<sup>406</sup> 29 Iowa 9.

<sup>407</sup> In this opinion the Court held that "it is a well-settled rule that taxes can be levied and collected by municipal corporations only, as the power is conferred upon them by the legislature; from that source they derive authority to levy taxes, and it must be exercised in the manner prescribed in their charters. The power conferred in this instance is to levy and collect taxes upon real and personal property. It is not pretended that the one per centum is levied on account of real estate owned by the defendant, but it is an assessment upon its income from premiums. This income cannot be considered as personal property, and is, therefore, not liable to taxation as such."—*The City of Burlington vs. The Putnam Insurance Co.*, 31 Iowa 104, 105.

<sup>408</sup> *Laws of Iowa* (Public), 1872, pp. 109-111.

<sup>409</sup> *Laws of Iowa* (Public), 1872, p. 110.

<sup>410</sup> It will be recalled that the general revenue law in force at that time provided for the taxation of real property and also the stock of corporations and companies assessed at cash value after deducting just debts.

<sup>411</sup> *Laws of Iowa* (Public), 1872, p. 110.

<sup>412</sup> *Code of Iowa*, 1873, p. 135.

<sup>413</sup> *The Iowa Daily State Register*, Vol. XIII, No. 28, Feb. 3, 1874.

<sup>414</sup> *Laws of Iowa* (Public), 1874, p. 2.

<sup>415</sup> This unique proposal is justly referred to by the *Chicago Inter-Ocean* in the following sarcastic terms: "The bill in question is in the interest of some lawyer who has an insurance suit which he prefers trying before a sympathetic local jury rather than in a cold and impartial federal court, or else is intended as a polite invitation for an insurance lobby to inspect the advantages of Des Moines as a winter resort".—Quoted in *Iowa State Register*, Vol. XXIII, No. 59, March 8, 1884.

<sup>416</sup> 74 Iowa 178.

<sup>417</sup> See 32 N. W. Reporter 376.



<sup>418</sup> 74 Iowa 184.

<sup>419</sup> *The Iowa State Register*, March 11, 1888.

<sup>420</sup> This masterpiece of fiscal discrimination appears in the *Code of Iowa*, 1897, p. 470.

<sup>421</sup> 91 Federal Reporter 711.

<sup>422</sup> The following quotation is from the opinion of Judge O. P. Shiras:

"This burden is in form and in substance a tax, but it is not a tax imposed upon the tangible property of the companies. It is a burden in the form of a tax, imposed as a condition upon the right of the companies to continue in business in Iowa. It cannot be denied that the state has the right to prescribe the terms, conditions, and burdens subject to which a foreign corporation can obtain the right of admission into the state, and it is beyond question that, so long as the provisions of section 1333 remain in force, no foreign corporation can secure the privilege of admission into the state, except upon a compliance with its requirements. But it is said that, after a foreign corporation has once rightfully entered the state, and engaged in business therein, no additional burden or restrictions can be imposed as a condition to the exercise of the right to continue in business. The power and right of the state to exclude foreign corporations, not engaged in interstate commerce, or in the furtherance of the business of the United States, from entering the state, includes the right to preclude such foreign corporations from continuing in business, and also includes the right to impose conditions upon such continuance."—91 Federal Reporter, 718-720.

<sup>423</sup> *Report of Treasurer of State*, 1899, p. xiv.

<sup>424</sup> The following extract from the report of Mr. Herriott, Treasurer of State will be instructive:

"But, granting that it is within the power of the state to discriminate in placing tax burdens upon corporations doing business within our borders, is it a wise policy for Iowa to pursue? Does it promote the best interests of the people? Such discriminations against foreign corporations I do not believe are beneficial. They inevitably engender retaliations against our State companies in

other States that may seriously embarrass their operations and progress outside of Iowa, and they tend to produce a condition of things within our own borders that may work great detriment to our home companies. The insurance of business, property or life, if it is a good thing, and no one nowadays doubts it, should be encouraged and promoted by the State by all proper means, and discriminations such as Iowa has inaugurated do not, in my opinion, promote the best interests either of our home companies or of the insuring public. Iowa should emulate the broader policy of New York and Massachusetts, and treat all companies, as nearly as may be alike.

“The present statute with its discrimination against foreign companies was passed for the purpose of obtaining increased revenues from such companies—not to ‘make war’ on them or to drive them out of the state, as generally charged by the eastern press. As such, the act only passed the senate by one vote. There was no local ill feeling against such companies. The home companies opposed the passage of the act as vigorously as the foreign companies. But while passed as a revenue measure, the additional taxes received are insignificant as compared with the great harm that may come from such discrimination. I urge the restoration of the old uniform rate on United States and foreign companies or the assessment of the same rate on other state companies now imposed on foreign.”—*Report of Treasurer of State, 1899*, pp. xvi, xvii.

<sup>425</sup> *Report of Treasurer of State, 1899*, p. xvii.

<sup>426</sup> 109 Iowa 585.

<sup>427</sup> *Code of Iowa, 1897*, pp. 466, 467.

<sup>428</sup> *Code of Iowa, 1897*, p. 470.

<sup>429</sup> *Constitution of Iowa, 1857*, Art. VIII, Sec. 2.

<sup>430</sup> 109 Iowa 588.

<sup>431</sup> The fact that the General Assembly might pass an act providing that a tax on the capital stock of certain insurance companies be paid into the State Treasury is clear from the following language of Judge Deemer:

“We are not to be understood as questioning the right of the legislature to adopt different methods for ascertaining values,

adapted to the various peculiarities of the property, or its right to fix the *situs* of property, both real and personal, although, in the exercise of such rights, inequalities must, of necessity, result. But that is quite a different proposition from relieving property from all taxation, or from certain kinds of tax."—109 Iowa 590, 591.

<sup>432</sup> This fact is clear from a study of the case as a whole and from numerous other decisions of the Supreme Court.

<sup>433</sup> *Constitution of Iowa*, 1857, Art. VIII, Sec. 2.

<sup>434</sup> 109 Iowa 589.

<sup>435</sup> "The importance of this decision", said the State Treasurer, "can scarcely be overestimated. If it prevails, it jeopardizes the State tax on telegraph, telephone and express companies as well as on insurance companies; and it puts almost insurmountable obstacles in the way of progress in corporate taxation in this State and the separation of State and local taxes. The uneven and uncertain assessments of corporations doing a State-wide business by local authorities will be substituted for the present uniform and definite tax now imposed by the State if this decision should be upheld.

"Insurance and telephone companies do what may be called a State business as distinguished from a local business. Their operations extend far beyond the boundary of the city and county wherein they may chance to be located, and their income, or the great bulk of it, comes from without their local community. Thus, insurance companies do a State business; nine-tenths of their operations are outside of the county wherein located, and nine-tenths of their funds are held subject to the payment of losses outside of such county. It is, therefore, peculiarly fitting that the State assesses such companies rather than this and that local authority, each one assessing upon different bases and ratios, and being influenced by varying motives and conditions and considerations. If the companies which the authorities of Des Moines and Polk county are attempting to assess do not pay their share of taxes compared with other corporations and private persons in the State, the corrective that could easily be applied is an increase in the rate assessed by the State.

"I am not here particularly concerned with the 'basis' for as-



sessing insurance companies and similar corporations. Whether they shall be taxed upon the basis of the par or market value of their stocks and bonds or upon the amount of their gross income or earnings, although a subject of great interest, is a matter that I do not consider here. The point of chief interest and importance to the state in the suit now pending, as I view it, and which I desire to emphasize, is whether or not we shall abandon the present method of a uniform state assessment of corporations doing a state business and return to the mode of local assessments of such companies in vogue in the fifties—a mode almost universally abandoned by American states.”—*Report of Treasurer of State, 1899*, pp. xvii, xviii.

<sup>436</sup> *The Sioux City Journal*, October 27, 1899.

<sup>437</sup> See above, p. 186.

<sup>438</sup> *Cedar Rapids Republican*, Vol. XXIX, No. 211, October 27, 1899.

<sup>439</sup> *The Iowa State Register*, October 27, 1899.

<sup>440</sup> See above, p. 210; also Vol. II, Chapter XXIV.

<sup>441</sup> See Vol. II, Chapters XXIV, XXV.

<sup>442</sup> The writer does not agree with the pessimistic views of Mr. Herriott regarding this important decision nor in fact with the public sentiment of that time. The legal principles so clearly stated by Chief Justice Deemer do not prevent legitimate reforms in taxation. A wrong application of these principles may and perhaps has had that result. What is really demanded is therefore not an amendment to the Constitution, but a more careful study of our social and industrial life.

<sup>443</sup> See above, p. 210; also Vol. II, Chapter XXIV.

<sup>444</sup> *Laws of Iowa*, 1900, p. 25.

<sup>445</sup> *Laws of Iowa*, 1900, p. 26.

<sup>446</sup> “The House on Friday passed the senate tax bill. This levies a 1. per cent state occupation tax and practically exempts Iowa companies from local taxation. It will produce about \$30,000 annual revenue for the state. Efforts to defeat the state tax and make it local and so much higher were defeated. The house

passed the bill without amendment as it was necessary to have it made a law by publication Saturday in order to relieve the insurance companies for this year of triple taxation, under recent decision of the supreme court. The Governor signed the bill last night."—*The Iowa State Register*, March 31, 1900.

<sup>447</sup> *Laws of Iowa*, 1902, p. 34.

<sup>448</sup> *Laws of Iowa*, 1906, p. 33.

<sup>449</sup> *Laws of Iowa*, 1907, p. 66.

<sup>450</sup> *Laws of Iowa*, 1907, p. 66.

<sup>451</sup> 129 Iowa 658.

<sup>452</sup> "To the proposition that the act should be held not to apply to corporations like those now complaining, it is sufficient to say, that such taxes are a part of the expenses of conducting the business; and that by section 1765 of the Code, such corporations are authorized to make assessments to meet expenses. Even were there no such provision they would undoubtedly have the inherent right to meet all legitimate and proper expenses by assessments. We are then brought directly to the question: Does the act in question offend against any of the federal or State constitutional limitations or statutes? That the tax imposed is a business or license tax is conceded. See *Scottish Co. v. Herriott*, 109 Iowa 606. But it is said that in exempting county mutual associations, not organized for pecuniary profit, an unjust and illegal discrimination is made against the plaintiffs; that the law is not uniform in its operation; that it grants special privileges to some companies to the exclusion of others; and that it offends against section 2 of article 8 of the state Constitution which provides that 'the property of all corporations for pecuniary profit, shall be subject to taxation the same as that of individuals.' When it is once conceded as it must be that the tax is not a property one, the last objection is disposed of, so that we shall give this question no further attention."—129 Iowa 664.

<sup>453</sup> It is not our purpose to criticise the decision of the court which was no doubt sound law. It is the action of the General Assembly which should be condemned.

## CHAPTER VIII

<sup>454</sup> *Laws of Iowa*, 1868, p. 264.

<sup>455</sup> *Code of Iowa*, 1851, p. 78; *Laws of Iowa*, 1858, p. 308.

<sup>456</sup> *Laws of Iowa*, 1868, p. 265.

<sup>457</sup> *Laws of Iowa*, 1868, p. 265.

<sup>458</sup> *Laws of Iowa*, 1868, p. 266.

<sup>459</sup> *Laws of Iowa*, 1870, p. 103.

<sup>460</sup> *Code of Iowa*, 1873, p. 136.

<sup>461</sup> *Report of Auditor of State*, 1875, pp. 7, 8.

<sup>462</sup> *Senate Journal*, 1896, p. 110.

<sup>463</sup> *The Iowa State Register*, March 21, 1896.

<sup>464</sup> *Laws of Iowa*, 1896, pp. 40, 41.

<sup>465</sup> *Code of Iowa*, 1897, pp. 474, 475.

<sup>466</sup> *Laws of Iowa*, 1898, p. 25.

<sup>467</sup> See above, p. 170.

<sup>468</sup> See above, p. 173.

<sup>469</sup> *Senate Journal*, 1900, p. 112.

<sup>470</sup> See Vol. II, Chapter XX.

<sup>471</sup> That portion of section one relating to the report required reads as follows:

“First. The name of the company.

“Second. The principal place of business.

“Third. The total capital stock of said company: (a) authorized; (b) issued.

“Fourth. The number of shares of capital stock issued and outstanding, and the par face value of each share, and in case no shares of stock are issued, in what manner the capital stock thereof is divided, and in what manner such holdings are evidenced.

“Fifth. The market value of said shares of stock on the first day of January next preceding, and if such shares have no market value, then the actual value thereof; and in case no shares of stock have been issued, state the market value, or the actual value, in case



there is no market value of the capital thereof, and the manner in which the same is divided.

"Sixth. The real estate, structures, machinery, fixtures and appliances owned by said company and subject to local taxation within the state of Iowa, and the location and actual value thereof in the county, township or district where the same is assessed for local taxation.

"Seventh. The specific real estate, together with the improvements thereon, owned by said company, situated outside of the state of Iowa, and not directly used in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used, and the actual value thereof, in the locality where situated.

"Eighth. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

"Ninth. The total length of lines or routes over which company transports such merchandise, freight or express.

"(b) The total length of such lines or routes as are outside of the state of Iowa.

"(c) The length of such lines or routes within each of the counties, townships and assessment districts, within the state of Iowa."—*Senate File*, No. 66, 1900, by Cheshire.

<sup>472</sup> The following sections of the bill describing the valuation of the property of express companies and the distribution of said value for purposes of taxation should be read in connection with the present railroad tax law:

"The executive council shall first ascertain the actual value of the entire property owned by said company, from said statements or otherwise, for that purpose taking the aggregate value of all shares of capital stock, in case said shares have a market value, and in case they have none, taking the actual value thereof or of the capital of said company, in whatever manner the same is divided, in case no shares of capital stock have been issued; provided, however, that in case the whole or any portion of the property of said company, shall be encumbered by a mortgage or mortgages, such council shall ascertain the actual value of such property by adding to the market value or the aggregate shares of stock or to the value of the capital, in case there shall be no such shares, the aggregate amounts of such

mortgage or mortgages, and the result shall be deemed and treated as the actual value of the property of such company.

“The executive council shall, for the purpose of ascertaining the actual value of the property within the state of Iowa, next ascertain from such statements or otherwise, the actual value in localities where the same is situated, of the several pieces of real estate situated without the state of Iowa, and not specifically used in the general business of such company, which said actual value shall be by the executive council deducted from the gross actual value of the property as above ascertained. The executive council shall next ascertain the actual value of the property of such company within the state of Iowa, by taking the proportion of the whole aggregate value of said company, as above ascertained, after deducting the actual value of such real estate without the state, which the length of the routes within the state of Iowa, bears to the whole length of the routes of such company, and such amount so ascertained shall be considered and taken to be the entire actual value of the property of said companies within the state of Iowa. From the entire actual value of the property within the state so ascertained, there shall be deducted by the said council, the actual value of all the real estate, structures, machinery and appliances within the state that are subject to local taxation within the counties, townships and other assessment districts as hereinbefore described in the sixth item of section 1 of this act.

“Sec. 5. The executive council shall thereupon ascertain the value per mile of the property within the state, by dividing the total value as above ascertained, after deducting the specific properties locally assessed within the state, by the number of miles within the state, and the result shall be deemed and held to be the actual value per mile of the property of such company within the state of Iowa. The assessed or taxable value shall be determined by taking that percentage of the actual value so ascertained, as is provided by section thirteen hundred and five of the code, and such valuation and assessment shall be in the same ratio as that of the property of individuals.

“Sec. 6. Said executive council shall thereupon, for the purpose of determining what amount shall be assessed by it to the said company, in each county of the state, through, across, into or over

which the route of said company extends, multiply the value per mile, as above ascertained, by the number of miles in each of such counties, as reported in said statements, or as otherwise ascertained, and the result thereof shall be by said council certified to the auditor of state, who shall thereupon certify the same to the auditors respectively of the several counties through, into, over and across which the routes of said company extend, together with a statement of the length of the routes in each township and assessment district in each county.

"Sec. 7. At the first meeting of the board of supervisors held after such statement is received by the county auditor, it shall cause the same to be entered on its minute book and make and enter therein an order stating the length of the routes and the assessed value of each in each city, town, township, or other assessment district in its county through or into which said routes extend, as fixed by the executive council, which shall constitute the taxable value of said property for taxing purposes, and the taxes on said property, when collected by the county treasurer, shall be disposed of as other taxes. The county auditor shall transmit a copy of said order to the councils of cities or towns and to the trustees of each township in the county. The county auditor shall also add to the value so apportioned the assessed value of the real estate, structures, machinery, fixtures and appliances situated in any township or assessment district, as returned by the assessors thereof, and extend the taxes thereon upon the tax list, as in other cases. All such property shall be taxable upon said assessment at the same rates, by the same officers and for the same purposes as the property of individuals within such counties, townships or assessment districts."—*Senate File*, No. 66, 1900, by Cheshire.

<sup>473</sup> See above, p. 204.

<sup>474</sup> *The Iowa State Register*, March 15, 1900.

<sup>475</sup> "Senator Cheshire," reports *The Iowa State Register*, "after the amendments offered by the committee had been agreed to, opened the debate. He said the unit plan has been upheld by every court. It has been enacted in several states. It is not novel. Wisconsin, Texas, Arkansas, Ohio, Indiana, Massachusetts having all adopted this method of taxation in one form or another. In every



case wherein the corporations have fought this idea of taxation the principle has been upheld. He explained the provisions of the bill in detail and read the decisions of the court sustaining not only the general principle of this system of taxation, but sustaining the provision that in ascertaining the value of stock in corporations it is necessary to add the bonded debt. He said that express companies do \$2,000,000 of business in Iowa each year. They compete with banks and lawyers. The farmer can not escape the levy of taxes. The legislature of Iowa should see that the express companies pay their share. The present law is one the express companies scoff and laugh at. Under it they altogether pay \$7,000 a year. One hundred and twenty farmers owning a quarter section pay more than that. They fought the bill. The same Mephistopheles of the lobby was here then as now. Learning that some justice was likely to be enacted into law along this line two years ago, they asked for an additional 1 per cent tax and laughed at the legislature. The present law is held unconstitutional. Some law must therefore be enacted by the assembly."—*The Iowa State Register*, March 16, 1900.

<sup>476</sup> *The Iowa State Register*, March 17, 1900.

<sup>477</sup> "While I have the highest regard and almost reverence for the distinguished senator from Poweshiek," said Senator Junkin, "I am fearful that some Oom Paul or little magician, by their ingenuity, have caused him to form a misconception of the bill under consideration. This is the first time we have learned of this dangerous feature of the bill. I hold in my hand the written objections made by the express company through its representative to this bill in committee. Nowhere can I find in those objections the one that is raised by the senator from Poweshiek, so that in the objections made when they had a hearing before the ways and means committee they never urged this one, nor when they submitted them to writing. Now, my good friend from Burlington, who says he is the friend of the express company, was the chairman of the sub-committee which prepared these amendments, and made no such recommendation as chairman of that sub-committee that this was a dangerous condition for the express companies. I concede it is a dangerous provisions to the express companies if they desire to avoid taxation, but it is a devitalizing provision of the bill, and we might just as well strike out the enacting clause, because it allows the com-

pany to deduct its indebtedness from the amount of the property.  
—*The Iowa State Register*, March 17, 1900.

<sup>478</sup> *The Iowa State Register*, March 17, 1900.

<sup>479</sup> *Senate Journal*, 1900, p. 686.

<sup>480</sup> *Laws of Iowa*, 1902, p. 117.

<sup>481</sup> *Laws of Iowa*, 1907, p. 67.

<sup>482</sup> The following is a copy of the section relating to the valuation of the property of express companies:

“The executive council shall first ascertain the actual value of the entire property owned by said company, from said statements or otherwise, for that purpose taking the aggregate market value of all shares of capital stock, in case said shares have a market value, and in case they have none taking the actual value thereof or of the capital of said company, in whatever manner the same is divided, in case no shares of capital stock have been issued; provided, however, that in case the whole or any portion of the property of said company shall be encumbered by a mortgage or mortgages, such council shall ascertain the actual value of such property by adding to the market value or the aggregate shares of stock or to the value of the capital, in case there shall be no such shares, the aggregate amount of the market or cash value of such mortgage or mortgages, and the result shall be deemed and treated as the actual value of the property of such company. The executive council shall, for the purpose of ascertaining the actual value of the property within the state of Iowa, next ascertain from such statements or otherwise the actual value of the property, both real and personal, owned by the company, and which is used exclusively outside the general business of the company, and also the actual value of that part of its property, if any, without the state which cannot lawfully be considered in determining the mileage value of its routes; and the aggregate of such values shall be deducted from the entire actual value of the property as above ascertained. The executive council shall next ascertain and deduct the actual value of the sea or ocean routes of any such company, and in ascertaining the same may take into consideration the earnings, both gross and net, per mile, of such sea or ocean routes, as compared with the earnings, gross and net, of the land routes of such company or may ascertain their

value in any other practicable manner, and may require that the reports heretofore provided for shall show such earnings. Thereupon the executive council shall ascertain the actual value of the property of such company within the state of Iowa, and for that purpose may take into consideration the proportional value of the company's property without and within the state, and shall take as a basis of valuation of the company's property in this state the proportion of the whole aggregate value of the property of said company, as above ascertained, after making the deductions above provided for which the length of the routes within the state of Iowa bears to the whole length of the routes of such company other than sea or ocean routes, and such amount so ascertained shall be considered and taken to be the entire actual value of the property of such company within the state of Iowa. From the entire actual value of the property within the state so ascertained, there shall be deducted by the said council the actual value of all the real estate, buildings, machinery, appliances, and personal property not used exclusively in the conduct of the business within the state that are subject to local taxation within the counties, townships, and other assessment districts as hereinbefore described in the sixth item of section one of this act."—*Laws of Iowa*, 1907, p. 67.

<sup>483</sup> *Thirty-eighth Annual Report of The Assessed Valuation of Railroad Equipment and Express Companies' Property in Iowa*, 1909, p. 57.

<sup>484</sup> *Thirty-eighth Annual Report of The Assessed Valuation of Railroad Equipment and Express Companies' Property in Iowa*, 1909, p. 58.

<sup>485</sup> *Thirty-eighth Annual Report of The Assessed Valuation of Railroad Equipment and Express Companies' Property in Iowa*, 1909, pp. 59, 60.

<sup>486</sup> *Thirty-eighth Annual Report of The Assessed Valuation of Railroad Equipment and Express Companies' Property in Iowa*, 1909, p. 61.

<sup>487</sup> *Seventh Annual Financial Report of Audubon County, Iowa*, 1908, p. 46.

<sup>488</sup> See Vol. II, Chapter XXII.

<sup>489</sup> *Municipal Accounts Report*, Iowa, 1907, p. 43.



## CHAPTER IX

<sup>490</sup> See above, pp. 181-183.

<sup>491</sup> *Laws of Iowa*, 1868, p. 264.

<sup>492</sup> *Laws of Iowa*, 1896, p. 40.

<sup>493</sup> *Report of Auditor of State*, 1877, p. 9.

<sup>494</sup> *Laws of Iowa*, 1878, p. 53.

<sup>495</sup> *Laws of Iowa*, 1878, p. 54.

<sup>496</sup> See Vol. II, Chapter XX.

<sup>497</sup> *Report of Auditor of State*, 1879, p. 12; 1881, p. 8.

<sup>498</sup> 67 Iowa 250.

<sup>499</sup> *Laws of Iowa*, 1878, p. 53.

<sup>500</sup> This case is so important from the standpoint of a State tax on the property of certain State wide public service corporations that the brief opinion of Judge Adams is here given in full.

“The court”, said Judge Adams, “assessed only the property within the city. The defendant contends that the court should have assessed all the property of the company within the county, and also that it should have assessed the property within the city higher than it did. The plaintiff contends that the court erred in assessing the property at all. Its position is that telephone lines and property should be assessed in the mode provided for assessing telegraph lines and property; (Chap. 59, Laws of 1878; Miller’s Code, 365;) and we have to say that we think that its position must be sustained. Both the telephone and telegraph are used for distant communication by means of wires stretched over different jurisdictions. The fundamental principle in each by which communication is secured is the same. It was held in *Wisconsin Telephone Co. v. City of Oshkosh*, 62 Wis. 32; S. C., 21 N. W. Rep., 828, that a statute authorizing the formation of corporations for building, owning and operating telegraph lines was sufficient to authorize the formation of corporations for building, owning, and operating telephone lines, the decision being based upon the identity of the principle by which communication in each case is secured. See, also, in this connection, *Attorney-general v. Edison Telephone Co.*

6 Q. B. Div., 244. It is not to be denied, probably, that the telephone service is more restricted as a means of communication; but the difference in this respect is not such, we think, as to render inapplicable the mode of taxation provided for telegraph companies.

"It follows that on the defendant's appeal the judgment must be affirmed and on the plaintiff's appeal reversed."—67 Iowa 250, 251.

<sup>501</sup> *Code of Iowa*, 1897, pp. 468, 469.

<sup>502</sup> *Code of Iowa*, 1897, p. 469.

<sup>503</sup> *Code of Iowa*, 1897, p. 470.

<sup>504</sup> 109 Iowa 585.

<sup>505</sup> See above, p. 184.

<sup>506</sup> The method adopted in a certain case depends upon the nature of the company and the wishes of the Executive Council.

<sup>507</sup> Section four of Senate File 65 as introduced by Senator T. A. Cheshire, which defines the method of assessment of the property of telephone companies, is as follows:

"The executive council shall first ascertain the actual value of the entire property owned by said company, from said statements or otherwise, for that purpose taking the aggregate value of all shares of capital stock, in case said shares have a market value, and in case they have none, taking the actual value thereof or of the capital of said company, in whatever manner the same is divided, in case no shares of capital stock have been issued; provided, however, that in case the whole or any portion of the property of said company shall be encumbered by a mortgage or mortgages, such council shall ascertain the actual value of such property by adding to the market value, or the aggregate shares of stock or to the value of the capital, in case there shall be no such shares, the aggregate amounts of such mortgage, or mortgages and the result shall be deemed and treated as the actual value of the property of such company.

"The executive council shall, for the purpose of ascertaining the actual value of the property within the state of Iowa, next ascertain from such statements or otherwise, the actual value in localities where the same is situated, of the several pieces of real

estate situated without the state of Iowa, and not specifically used in the general business of such company, which said actual value shall be by the executive council deducted from the gross actual value of the property as above ascertained. The executive council shall next ascertain the actual value of the property of such company within the state of Iowa, by taking the proportion of the whole aggregate value of said company, as above ascertained, after deducting the actual value of such real estate without the state, which the length of the routes within the state of Iowa bears to the whole length of the routes of such company, and such amount so ascertained, shall be considered and taken to be the entire actual value of the property of said companies within the state of Iowa. From the entire actual value of the property within the state so ascertained, there shall be deducted by the said council, the actual value of all the real estate, structures, machinery and appliances within the state that are subject to local taxation within the counties, townships and other assessment districts as hereinbefore described in the sixth item of section 1 of this act."—*Senate File*, No. 65, 1900, Section 4.

<sup>508</sup> See above, p. 186.

<sup>509</sup> *The Iowa State Register*, Feb. 23, 1900.

<sup>510</sup> *The Iowa State Register*, Feb. 23, 1900.

<sup>511</sup> The following independent telephone people appeared before the Ways and Means Committee of the Senate against the Cheshire bills and in favor of the Blanchard bill:

George N. Bandy, of Perry, president of the State Association of Independent Telephone Companies; J. S. Bellamy, of Knoxville, president of Southeastern Independent Telephone Companies' Association; J. F. Hendrickson, of Wapello; C. M. McFatrige, of Moravia; Mr. Smith, of Clearfield; H. C. Raney, of Fairfield, president of the Fairfield Telephone Company and chairman of the executive committee of the State Association of Independent Companies; Mr. Witherington, of Toledo; W. C. Wycoff, of Rock Rapids; Ed. Martin, of Webster City; H. C. Smith, of Manchester; C. B. Doby, of Sigourney; and Mr. Howe, of Marshalltown.—Taken from *The Iowa State Register*, February 27, 1900.



<sup>512</sup> The following is a clear statement of this argument which was so frequently advanced by the telephone companies:

“The independent people insist that if the Cheshire bill is passed the telephone companies operating these extended toll lines will be taxed not only in Minnesota, Nebraska and Missouri on their property in those states, but also in Iowa. For instance, the big stations where the headquarters are in the cities of Minneapolis, Omaha, St. Joe and Kansas City, are, it is presumed, taxed according to their value; the full value of the big exchanges are taxed already. Yet the Cheshire bill provides that the value of this property shall be divided by the number of miles of telephone line and the miles in Iowa shall bear their proportion. This, the independent people insist, will be double taxation”.—*The Iowa State Register*, February 27, 1900.

<sup>513</sup> *The Iowa State Register*, March 14, 1900.

<sup>514</sup> *The Iowa State Register*, March 22, 1900.

<sup>515</sup> *The Iowa State Register*, March 23, 1900.

<sup>516</sup> *Code of Iowa*, 1897, p. 469.

<sup>517</sup> *The Iowa State Register*, March 23, 1900.

<sup>518</sup> *Senate Journal*, 1900, pp. 757, 758.

<sup>519</sup> *Code of Iowa*, 1897, p. 469.

<sup>520</sup> *Laws of Iowa*, 1900, p. 24.

<sup>521</sup> *Code of Iowa*, 1897, p. 470.

<sup>522</sup> *Laws of Iowa*, 1900, p. 25.

<sup>523</sup> *Laws of Iowa*, 1904, pp. 38, 39.

<sup>524</sup> See above, p. 170.

<sup>525</sup> 123 Iowa 594, 595.

<sup>526</sup> 112 N. W. Reporter 823.

<sup>527</sup> *Code of Iowa*, 1897, p. 470.

<sup>528</sup> *Code of Iowa*, 1897, pp. 468-470.

<sup>529</sup> 112 N. W. Reporter 825.

<sup>530</sup> *Report of The Tenth Annual Assessment of Telegraph and*

*Telephone Property of The State of Iowa*, as fixed by the Executive Council, July 26, 1909, p. 4.

<sup>531</sup> *Report of The Tenth Annual Assessment of Telegraph and Telephone Property of The State of Iowa*, as fixed by the Executive Council, July 26, 1909, pp. 4-6.

<sup>532</sup> *Report of The Tenth Annual Assessment of Telegraph and Telephone Property of The State of Iowa*, as fixed by the Executive Council, July 26, 1909, p. 7.

<sup>533</sup> *Financial Report of Chickasaw County, Iowa*, 1908, p. 47.

<sup>534</sup> *Municipal Accounts Report*, Iowa, 1907, p. 43.

<sup>535</sup> See Volume II, Chapter XXV.

## CHAPTER X

<sup>536</sup> *Report of the Revenue Commission of Iowa*, 1893, pp. 15, 43-47.

<sup>537</sup> *Report of the Revenue Commission of Iowa*, 1893, pp. 43, 44.

<sup>538</sup> See above, p. 99.

<sup>539</sup> *Proposed Revision of the Code of Iowa*, 1896, pp. 256, 257.

<sup>540</sup> *Report of Code Commissioners*, 1896, p. 50.

<sup>541</sup> *Shambaugh's Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 26.

<sup>542</sup> *The Iowa State Register*, March 7, 1896.

<sup>543</sup> *Laws of Iowa*, 1896, pp. 35-39.

<sup>544</sup> The following is the section concerning the rate of the tax:

“All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the intestate laws of this or any other state, or by deed, grant, sale, or gift made or intended to take effect in possession or in enjoyment after the death of the grantor, or donor, to any person in trust or otherwise, other than to or for the use of the father, mother, husband, wife, lineal descendant, adopted child, the lineal descendant of an adopted child of a decedent, or to or for charitable, educa-

tional, or religious societies or institutions within this state, shall be subject to a tax of five per centum of its value, above the sum of one thousand dollars, after the payment of all debts, for the use of the state; and all administrators, executors, and trustees, and any such grantee under a conveyance, and any such donor under a gift, made during the grantor's or donor's life, shall be respectively liable for all such taxes to be paid by them respectively, except as herein otherwise provided, with lawful interest as hereinafter set forth, until the same shall have been paid. The tax aforesaid shall be and remain a lien on such estate from the death of the decedent until paid."—*Laws of Iowa*, 1896, pp. 35, 36.

<sup>545</sup> *Laws of Iowa*, 1896, pp. 36, 37.

<sup>546</sup> *Report of Treasurer of State*, 1897, pp. 44, 45.

<sup>547</sup> *Report of Treasurer and Receiver General of Massachusetts*, 1891, p. 12.

<sup>548</sup> *Report of Treasurer and Receiver General of Massachusetts*, 1895, pp. 16, 17.

<sup>549</sup> *Report of Comptroller of New York*, 1892, p. xxix.

<sup>550</sup> On this point Comptroller James A. Roberts has the following to say:

"The department feels that no inconsiderable portion of this increase [of taxes] was due to the attention given the appraisal of estates by representatives of the department, preventing thereby an undervaluation of estates or their complete escape of taxation. Experience seems to demonstrate that it is for the interests of this state, in its large counties, to have a reliable person to attend every appraisal.

"The last legislature amended chapter 399 of the laws of 1892, giving the Comptroller authority, with the approval of the Attorney-General, and a Justice of the Supreme Court of the judicial district in which the decedent resided, to compromise and settle the amount of tax where controversies have arisen, or may hereafter arise, as to the relationship of the beneficiary to the former owner thereof. . . . The Legislature also gave the Comptroller power, if he believes an appraisal, assessment, or determination have been fraudulently, collusively or erroneously made, to make application



to a Justice of the Supreme Court of the judicial district in which the decedent resided for a reappraisal of the estate, provided, that such application is made within two years after the entry of the order by the surrogate. Several cases are now pending under this last named act, and in one the report has been filed showing a tax due on over \$200,000 of securities."—Quoted in *Report of Treasurer of State*, 1897, pp. 51, 52, from the *Report of Comptroller of New York*, 1896, p. xiii.

<sup>551</sup> *Report of Treasurer of State*, 1897, p. 47.

<sup>552</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VII, p. 128.

<sup>553</sup> *Laws of Iowa*, 1898, p. 27.

<sup>554</sup> *Laws of Iowa*, 1898, pp. 27, 28.

<sup>555</sup> *Laws of Iowa*, 1898, p. 28.

<sup>556</sup> Judges S. M. Weaver, L. E. Fellows, H. M. Towner, Z. A. Church, and Mr. M. J. Wade were appointed for this work.

<sup>557</sup> *Report of Treasurer of State*, 1899, p. 223.

<sup>558</sup> *Report of Treasurer of State*, 1898, pp. 6, 7.

<sup>559</sup> *Report of Treasurer of State*, 1899, p. xxxviii.

<sup>560</sup> *Report of Treasurer of State*, 1899, p. xliii.

<sup>561</sup> See above, p. 239.

<sup>562</sup> For reasons stated elsewhere, the writer believes this to be an unfortunate recommendation. The language of the Treasurer was as follows:

"In this connection I suggest the advisability of increasing the rate of the tax upon property going to collateral heirs which may go outside the State and outside the National jurisdiction. This would be thoroughly in harmony with wise public policy and sound finance. The citizens of this State are taxed to support our Police and Courts and Government which protect a man in his life and property. If on his death his property goes entirely out of the State, goes to New England or to Germany, as numbers of estates do, it is not unjust or unwise to assess a larger tax against such property than is charged against estates going to persons resident in Iowa and constant contributors to our industries and State and

going to collateral beneficiaries living outside of Iowa but citizens of other States of the United States, and a tax of 10 per cent upon property passing to heirs or devisees living in a foreign country, should be instituted. The same rates of assessment should prevail where estates probated outside of Iowa possessing lands and personality in this State pass to collateral beneficiaries.”—*Report of Treasurer of State, 1899*, p. lv.

<sup>563</sup> *Laws of Iowa, 1900*, p. 36.

<sup>564</sup> *Report of Treasurer of State, 1901*, p. 11.

<sup>565</sup> *Report of Treasurer of State, 1901*, p. 12.

<sup>566</sup> *Laws of Iowa, 1902*, p. 39.

<sup>567</sup> See above, p. 249.

<sup>568</sup> *Report of Treasurer of State, 1903*, p. 8.

<sup>569</sup> The following is the statement made by the Treasurer of State:

“The same question is dealt with in successive acts of the legislature, besides a set of rules promulgated by a commission, which rules are nowhere found in any of the session laws, though they are now published in the Code supplement. It is because of this confusion that we advocated a codification in our last report, and the two years that have since elapsed have in no way changed our position except to strengthen our advocacy of the measure. There should be uniformity in the enforcement of any law. Especially should this be true of revenue laws. To procure uniformity the codification indicated in the printed bill before the Twenty-ninth General Assembly should be enacted.”—*Report of Treasurer of State, 1903*, p. 8.

<sup>570</sup> See above, p. 231.

<sup>571</sup> *Senate Journal, 1904*, p. 947.

<sup>572</sup> *Laws of Iowa, 1904*, p. 43.

<sup>573</sup> *House Journal, 1904*, p. 195.

<sup>574</sup> *Report of Treasurer of State, 1905*, p. viii.

<sup>575</sup> *Laws of Iowa, 1906*, pp. 37, 38.

<sup>576</sup> The following section is a good illustration of one phase of our present revenue system:

“That the law as it appears in section number one thousand four hundred and sixty-seven (1467) of the supplement to the code, 1907, be and the same is hereby amended by striking out the semicolon as appears therein following the word ‘week’ in the twelfth line thereof and inserting in lieu thereof, after the word ‘week’ the following: ‘Or any bequest, not to exceed \$500.00, to and in favor of any person, having for its purpose the performance of any religious service to be performed for and in behalf of decedent or any person named in his or her last will and testament, or any cemetery associations.’ ”—*Laws of Iowa*, 1909, p. 81.

<sup>577</sup> The following is the statement by Governor Cummins:

“We now have a statute which levies, under certain conditions, a collateral inheritance tax. The propriety of levying also a direct inheritance tax may well engage your attention. I do not look upon a tax of that character as a method for the reduction of swollen fortunes. I view it solely as another effort to equalize the burdens of society. It ought not to be levied upon small inheritances; but after the proper limit is passed, there is no reason which justifies a collateral inheritance tax which will not also vindicate one upon direct inheritances. I earnestly hope that you will interest yourselves in the subject, and take such action upon it as the best interest of the State requires.”—*Message of Albert B. Cummins, Governor of the State of Iowa*, 1907, p. 13.

<sup>578</sup> *Senate Journal*, 1907, p. 1211.

<sup>579</sup> *Message of Warren Garst, Governor of the State of Iowa*, 1909, p. 24.

<sup>580</sup> *Senate Journal*, 1909, p. 1369.

<sup>581</sup> *House Journal*, 1909, p. 1173.

<sup>582</sup> *House File*, No. 129, 1909, by Lee.

<sup>583</sup> The writer was in daily contact with the work of the Thirty-third General Assembly, and bases this statement on what he believes to be a fairly accurate knowledge of facts and conditions.

<sup>584</sup> The following is a copy of the Gilliland bill:

“Section 1. Section Fourteen Hundred and Sixty-seven (1467) of the Code is hereby amended by adding thereto the following:

“Where the share of the inheritance exclusive of real estate



therein, or the proceeds of the sale thereof falling to the father, mother, husband, wife, lineal descendant, adopted child, or the lineal descendant of an adopted child of decedent, after the payment of all debts, exceeds the sum of Ten Thousand (\$10,000) Dollars, such excess shall be subject to a tax as follows: On the first Ten Thousand (\$10,000) Dollars or fraction thereof, one per centum; on the second Ten Thousand (\$10,000) Dollars or fraction thereof, two per centum; on the third Ten Thousand (\$10,000) Dollars or fraction thereof, three per centum; on the fourth Ten Thousand (\$10,000) Dollars or fraction thereof, four per centum; and on any sum or interest beyond such fourth Ten Thousand (\$10,000) Dollars, five per centum; provided, however, that to the surviving spouse there shall be exempt the full net one-third of the estate, however large. All the provisions of this chapter relating to the manner of enforcement and collection of the collateral inheritance tax shall apply to the enforcement and collection of the direct inheritance tax herein provided for.”—*Senate File*, No. 33, 1909.

<sup>585</sup> The facts in this case, which will be of interest to the reader, are stated by Justice Robinson in these words:

“This proceeding arises under chapter 28 of the Acts of the Twenty-Sixth General Assembly, entitled ‘An act imposing a collateral inheritance tax and providing for the collection of the same.’ The material facts involved are as follows: In August, 1896, Thomas H. McGhee, a non-resident of this state, died intestate. Neither wife, parent, nor any lineal descendant, adopted child, nor lineal descendant of an adopted child, survived him, and his only heirs are twenty-five children and grand-children of his four deceased sisters. He left both real and personal property in this state, and on the last day of August, 1896, Nath. French was appointed administrator of his property within this state. In March, 1897, the administrator commenced this proceeding, in which he asked for the appointment of three appraisers to value and appraise the property of the decedent within this state, for the purpose of ascertaining the amount of inheritance tax due on the property. Appraisers were accordingly appointed, who thereafter filed a report which contained a list of the property which belonged to the estate and fixed its ‘assessed value’ at twenty-two thousand, five hundred

and thirty-five dollars, and stated that the appraisers were uncertain whether each heir was entitled to an exemption of one thousand dollars, or whether that exemption was only from the total assessed value. The court approved the appraisement, and found that each heir was entitled to an exemption of one thousand dollars, and thereupon ordered that the administrator pay the collateral tax on the amount of the shares of each heir in excess of one thousand dollars. Thereafter the state filed an application to have the appraisement and order of the court based thereon set aside, and as grounds therefor stated that the proceedings had been without notice to the state and that it had not had an opportunity to appear at the time the order of the court was made, that the appraisement was much below the actual value of the property, and that the court erred in computing the tax due from the estate, to the prejudice of the state. The application of the state was sustained, and the appraisers were directed to appraise all the property of the estate at a fair market value; and it was also ordered that from the valuation thus ascertained the debts, costs, and the expenses of the administration, and the sum of one thousand dollars, exempt by statute, be deducted, and that the remainder be assessed with the collateral inheritance tax. A new appraisement was made as directed, and the property was appraised at the sum of sixty-two thousand, five hundred and eighty dollars. After deducting the expense of administration, and one thousand dollars in addition, fifty eight thousand dollars, subject to the statutory tax, were found to remain. The valuation and report of the appraisers were approved, and the payment of the inheritance tax on the amount last named was directed. The administrator appeals from the order setting aside the first appraisement, and directing a new one, and from the approval of the second appraisement, and second order directing the payment of the tax."—105 Iowa 10-12.

<sup>586</sup> 105 Iowa 13.

<sup>587</sup> *Code of Iowa*, 1873, p. 7.

<sup>588</sup> The following is the language of the statute: "All property within the jurisdiction of this state . . . which shall pass . . . to any person [other than the person exempted] . . . shall be subject to a tax of five per centum of its value, above the sum of one thousand dollars."—*Laws of Iowa*, 1896, pp. 35, 36.

<sup>589</sup> The following is the language of the court on this point:

“But the tax is only payable on account of the property of an estate in excess of one thousand dollars which remains ‘after the payment of all its debts.’ To whose debts does the statute refer? The officer charged with the duty of settling the estate cannot have official knowledge of the debts of the collateral heir or other person to whom the property is to go, and there does not appear to be any good reason for granting to such a person, because he is in debt, an exemption, at the expense of the state, which is not granted to a person of the same class who is not in debt. It is evident that the debts to be paid are those which are claims against the estate of decedent and we are of the opinion that both of the phrases, ‘above the sum of one thousand dollars’ and ‘after the payment of all debts,’ have direct relation to the estate of the decedent. The legislative intent as to this may be expressed thus: ‘All property within the jurisdiction of this state, which shall pass by will or the intestate laws of this or any other state, or by deed, grant, sale or gift made . . . other than to or for the use of the persons specified, shall be subject to a tax of five per centum of its value above the sum of one thousand dollars, after payment of all its debts, for the use of the state.’ Other portions of the act tend to justify the interpretation we adopt, and we do not doubt that it expresses the legislative intent. It will, as nearly as is practicable, operate uniformly, where the conditions are the same, and thus produce equality in result.”—105 Iowa 14.

<sup>590</sup> 105 Iowa 15.

<sup>591</sup> 110 Iowa 290.

<sup>592</sup> *In re McPherson*, 104 New York 321.

<sup>593</sup> 110 Iowa 298.

<sup>594</sup> *Iowa Land Co. vs. Soper*, 39 Iowa 112; *Association vs. Heidt*, 107 Iowa 297; *Tuttle vs. Polk*, 84 Iowa 12.

<sup>595</sup> 110 Iowa 301.

<sup>596</sup> 110 Iowa 342.

<sup>597</sup> The following was written by Justice McClain in *Gilbertson vs. McCauley* when the same point was again adjudicated:

“The value of decedent’s estate after the payment of debts, ex-



ceeded \$1,000, all of which, by will, passed to collateral relatives. The executor paid the collateral inheritance tax of 5 per cent. required by Code, section 1467, on all of the estate in excess of \$1,000 left after the payment of debts, and this action is brought to recover the 5 per cent. tax on \$1,000, which the defendant claims to be exempt. The construction of the section of the Code just referred to has already been considered by this court. *In re McGhee's Estate*, 105 Iowa, 9; *Herriott v. Bacon*, 110 Iowa, 342. Counsel for appellant admit that in the latter of these cases the court indicated its views to be that, construing Code, section 1467, with sections 1470 and 1471, an estate exceeding in value \$1,000 after payment of debts was taxable, so far as it is passed to collateral relatives, without the allowance of any exemption; the expression 'above the sum of \$1,000,' found in the Code, section 1467, being descriptive of an estate which was to be exempt from the tax, and not of a portion of the estate which was to be so exempt. But they urge now the adoption of a construction which they contend would be consistent with the result reached in the two cases above referred to, although different from the one adopted in the latter of the two cases in reaching the result. The construction contended for is that \$1,000 in value of the estate after the payment of debts is, in any event, to be exempt from taxation, but that all in excess of \$1,000 is to be taxed so far as it passes to collateral relatives. In other words, it is claimed that, while there is not an exemption of \$1,000 to collateral relatives, either individually or collectively, there is an exemption of \$1,000 of the estate. This construction might be permissible if the language of Code, section 1467, alone were considered. But, as pointed out in *Herriott v. Bacon*, *supra*, all the sections relating to collateral inheritance tax having been adopted at the same time, they must be construed together; and we cannot see that the construction now urged in behalf of appellant would solve the difficulties which would arise in construing sections 1470 and 1471. We are satisfied that the conclusion reached in *Herriott v. Bacon*, is the only one which will harmonize the three sections, and therefore adhere to the rulings in that case, which is that there is no exemption where the value of the estate, after the payment of debts, exceeds \$1,000."—117 Iowa 522.

<sup>599</sup> 115 Iowa 648.

<sup>600</sup> 121 Iowa 423.

<sup>601</sup> 110 Iowa 328.

<sup>602</sup> 129 Iowa 568.

<sup>603</sup> From a statement prepared by Hon. Q. A. Willis of the State Treasury Department.

<sup>604</sup> *Supplement to Code of Iowa*, 1907, pp. 307, 308.

<sup>605</sup> *Laws of Iowa*, 1909, p. 81.

<sup>606</sup> *Morrow vs. Durant*, 118 N. W. Reporter 781.

<sup>607</sup> Statement prepared by Hon. Q. A. Willis of the State Treasury Department.

<sup>608</sup> Statement by Hon. Q. A. Willis of the State Treasury Department.

<sup>609</sup> *House Journal*, 1902, p. 71; *Senate Journal*, 1902, p. 106.

<sup>610</sup> *Senate File*, No. 48, 1902, by Junkin.

<sup>611</sup> The Treasurer of State recommended as follows:

“As the clerk of the district court has the first knowledge of the liability, for the tax, of all estates, and is a clerical officer, I would recommend that it be made his duty to notify the treasurer of state of such liability, in lieu of the report by the county attorney, and that his compensation for so doing in each estate be \$1 for each \$100 or fraction thereof, of tax paid, but not to exceed the sum of \$5 in any one estate; the same to be in addition to the compensation now allowed him by law. For the legal services performed by the county attorney, under the direction of the treasurer of state, I would recommend that they be given the same fee as is provided in section 3869 of the Code relative to the taxing of attorney's fees, making it ten per cent on the first \$200 or fraction thereof of tax paid, five per cent on the excess of \$200 to \$500, three per cent on the excess of \$500 to \$1,000, and one per cent on all in excess of \$1,000. By this arrangement, the report would come direct from the officer having the records in charge, relieving the county attorney from this responsibility yet securing for him about the

same compensation in the aggregate as now derived."—*Report of Treasurer of State*, 1901, p. 12.

<sup>612</sup> *Report of Treasurer of State*, 1903, p. 7.

## CHAPTER XI

<sup>613</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>614</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>615</sup> *Laws of Iowa*, 1838-1839, p. 416.

<sup>616</sup> *Laws of Iowa*, 1840-1841, p. 65.

<sup>617</sup> *Laws of Iowa*, 1840-1841, p. 81.

<sup>618</sup> *Laws of Iowa*, 1840-1841, p. 66.

<sup>619</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>620</sup> Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, p. 42.

<sup>621</sup> *Laws of Iowa*, 1846-1847, p. 137.

<sup>622</sup> *Laws of Iowa*, 1846-1847, p. 138.

<sup>623</sup> *Code of Iowa*, 1851, p. 75.

<sup>624</sup> *Code of Iowa*, 1851, p. 95.

<sup>625</sup> *Code of Iowa*, 1851, p. 97.

<sup>626</sup> *Code of Iowa*, 1851, p. 89.

<sup>627</sup> *Laws of Iowa*, 1838-1839, pp. 401, 416.

<sup>628</sup> *Laws of Iowa*, 1852-1853, pp. 124, 125.

<sup>629</sup> *Laws of Iowa*, 1858, p. 325.

<sup>630</sup> *Revision of 1860*, p. 126.

<sup>631</sup> *Code of Iowa*, 1873, p. 157.

<sup>632</sup> *Laws of Iowa*, 1858, p. 332.

<sup>633</sup> *Revision of 1860*, p. 140.

<sup>634</sup> *Code of Iowa*, 1873, p. 170.

<sup>635</sup> *Code of Iowa*, 1897, p. 575.

<sup>636</sup> *Code of Iowa*, 1873, p. 172; *Code of Iowa*, 1897, p. 576.



- <sup>637</sup> *Laws of Iowa*, 1876, p. 121.  
<sup>638</sup> *Laws of Iowa*, 1894, p. 63.  
<sup>639</sup> *Code of Iowa*, 1897, p. 859.  
<sup>640</sup> *Laws of Iowa* (Public), 1874, p. 58.  
<sup>641</sup> *Code of Iowa*, 1897, p. 475.  
<sup>642</sup> 111 Iowa 496.  
<sup>643</sup> *Laws of Iowa*, 1898, p. 25.  
<sup>644</sup> *Laws of Iowa*, 1904, p. 41.  
<sup>645</sup> *Laws of Iowa*, 1907, p. 68.

<sup>646</sup> The following is a copy of the amendment relating to the disposition of the mullet tax:

“Section 1. That the law as it appears in section twenty-four hundred and forty-five (2445) of the code, be and the same is hereby repealed and there is enacted in lieu thereof the following:

“The revenue derived from the tax provided for in this chapter shall be paid into the county treasury, one-half to go into the general county fund, and the remainder to be paid over to the municipality in which the business taxed is conducted. If such business is conducted outside the limits of a city or town then the tax now in the hands of the county treasurers, or that shall hereafter be collected from such business, shall be apportioned as follows: One-half to the general county fund and the other one-half to the clerk of the township in which such business is conducted. The clerk of the township shall apportion the amount so received by him equally among the road supervisors of the territory of the township outside of the city or town, to be by said road supervisors expended for the improvement of the roads in the districts. In counties where a tax on the traffic in intoxicating liquors is paid into and belongs to the county treasury, the board of supervisors may transfer the same or any part thereof to the county road fund and expend the same upon the roads of the county; and that portion of such revenue derived from such business conducted inside the limits of a city including cities under special charter or town, the board may expend all or any part thereof upon the permanent improvement of streets within such city or town abutting upon agricultural or horticultural lands not subject to taxation for general municipal purposes.

"Sec. 2. This act being deemed of immediate importance shall take effect and be in full force from and after its publication in the Register and Leader and the Des Moines Capital, newspapers published in the city of Des Moines, Iowa. Approved March 25, A. D. 1909."—*Laws of Iowa*, 1909, pp. 137, 138.

<sup>647</sup> *Senate Journal*, 1907, p. 1125.

<sup>648</sup> The text in full of this bill is as follows:

"Section 1. That all corporations, whether organized under the laws of this state, or under the laws of any other state, territory or any foreign country, which have heretofore complied with the laws of this state relating to organization as a corporation, and secured a certificate of incorporation, or permit to transact business in this state; and all corporations that may hereafter organize and become incorporated under the laws of this state, and shall secure a certificate of incorporation or permit to transact business therein, or any foreign corporation that may hereafter comply with the laws of this state relating to foreign corporations, and secure a permit to transact business within this state, shall, between the first day of July and the first day of August of each year, make an annual report to the secretary of state, said report to be in such form as he may prescribe, upon blanks to be prepared by him for that purpose, and such reports shall contain the following information:

"1. Name and postoffice address of the corporation.

"2. The amount of capital stock authorized.

"3. The amount of capital stock actually issued and outstanding.

"4. Par value of such stock and the actual value thereof, designating whether preferred or common stock, the par and actual value of each being shown, as near as may be determined.

"5. The name and postoffice address of its officers and directors and whether any change of place of business has been made during the year previous to making said report.

"Sec. 2. That the report required by section one (1) of this act shall be signed and sworn to by an officer of the corporation and when filed with the secretary of state shall be accompanied by the fee required in section three (3) hereof and also by an application for a permit to be issued to said corporation under the provisions of this act; said permit to be in such form as the secretary of state may

prescribe and which shall be in force and effect for one year from and after the first day of July of the year in which it is issued, except that where the term of a corporate existence shall expire in less than a year from the first day of July aforesaid, then said permit shall be issued for such unexpired term only, provided, however, that any corporation organized after the first day of April of any year shall be exempt from the provisions of this act for the period ending one year from the first day of July following, after which it shall be subject to all the provisions of this chapter.

“Sec. 3. Every corporation whose corporate period has not expired, which has heretofore obtained, or may hereafter obtain a certificate of incorporation or permit under the provisions of chapter 1 of title IX to transact business in this state as a corporation, whether the same be a domestic or foreign corporation, shall pay to the secretary of state an annual license fee of five dollars on capital stock up to ten thousand dollars, ten dollars on capital stock of over ten thousand dollars up to one hundred thousand dollars, fifteen dollars on capital stock of over one hundred thousand dollars up to five hundred thousand dollars, twenty dollars on over five hundred thousand dollars up to one million dollars, and twenty-five dollars on all corporations having capital stock of one million dollars or over, which shall be by him accounted for the same as other fees of his office.—*Senate File*, No. 203, 1907, by Ericson.

<sup>649</sup> *The Register and Leader*, Vol. LVII, No. 271, March 30, 1907.

<sup>650</sup> The following is the statement by Governor Cummins: “It is believed by many of the most thoughtful students of governmental affairs that the time has come for an annual franchise corporation tax. I concur in that belief. You could add greatly to the revenues of the State, and at the same time place some of the burdens of maintaining the Government where they belong, by providing for such a tax”.—*Message of Albert B. Cummins, Governor of the State of Iowa*, 1907, p. 19.

<sup>651</sup> Letter received from Senator C. J. A. Ericson of Boone, author of the bill.

<sup>652</sup> *Senate Journal*, 1907, p. 460.

<sup>653</sup> *Senate Journal*, 1907, p. 619.



<sup>654</sup> *Senate Journal*, 1907, p. 705.

<sup>655</sup> *Senate Journal*, 1907, pp. 828-830.

<sup>656</sup> *Senate Journal*, 1907, p. 1121.

<sup>657</sup> *Senate Journal*, 1907, p. 1125.

<sup>658</sup> *House Journal*, 1907, p. 1510.

<sup>659</sup> *Message of Warren Garst, Governor of the State of Iowa*, 1909, p. 24.

<sup>660</sup> *Laws of Iowa*, 1909, p. 96.

## CHAPTER XII

<sup>661</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 107.

<sup>662</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>663</sup> *Laws of Iowa*, 1839-1840, p. 65.

<sup>664</sup> *Laws of Iowa*, 1840-1841, p. 65.

<sup>665</sup> *Laws of Iowa*, 1843-1844, p. 29.

<sup>666</sup> See above, p. 23.

<sup>667</sup> *Constitution of Iowa*, 1846, Art. II, Sec. 6.

<sup>668</sup> *Constitution of Iowa*, 1846, Art. IV, Sec. 10.

<sup>669</sup> *Laws of Iowa*, 1858, pp. 305, 306; *Code of Iowa*, 1851, pp. 75, 76; *Revision of 1860*, pp. 109, 110.

<sup>670</sup> *The Iowa State Register*, Vol. VIII, No. 1, February 12, 1862.

<sup>671</sup> *The Iowa State Register*, Vol. VIII, No. 1, February 12, 1862.

<sup>672</sup> *Laws of Iowa*, 1862, p. 32.

<sup>673</sup> The following is a copy of the act to exempt from taxation the property of bible societies:

"That in addition to the property now exempt from taxation by Section seven hundred and eleven of the Revision of 1860 there shall also be exempt from taxation, all real and personal property, situated in this state, belonging to any Bible Society or auxiliary of such Society, where such property is received, owned or held, solely for benevolent purposes, and is devoted solely to such pur-

poses. *Provided*, that all deeds or other writings by which such real property is passed to and held by any such Society, shall first be duly filed for record in the office of the Recorder of Deeds of the county wherein such real estate is situated, before the property therein described, shall be omitted from the assessment now required by law."—*Laws of Iowa*, 1864, p. 86.

<sup>674</sup> *Laws of Iowa*, 1868, p. 126.

<sup>675</sup> *Laws of Iowa* (Public), 1872, p. 4.

<sup>676</sup> *Code of Iowa*, 1873, pp. 132-134.

<sup>677</sup> *Code of Iowa*, 1873, pp. 133, 134.

<sup>678</sup> *Senate Journal*, 1874, p. 21.

<sup>679</sup> Senator Shane (in the newspaper a mistake is made by using "Shaw" in place of "Shane") estimated that, the Baptists received \$22,000; Christians, \$4,133; Congregationalists, \$17,630; Episcopal, \$6,400; Methodists, \$49,666; Presbyterians, \$32,000; Catholics, \$40,000; and other denominations in proportion.—*The Iowa Daily State Register*, Vol. XIII, No. 19, January 23, 1874.

<sup>680</sup> *The Iowa State Register*, Vol. XIII, No. 19, January 23, 1874.

<sup>681</sup> *The Iowa State Register*, Vol. XIII, No. 19, January 23, 1874.

<sup>682</sup> *Senate Journal*, 1874, p. 27.

<sup>683</sup> *Senate Journal*, 1874, p. 26.

The substitute was as follows:

"*Resolved*, That the unselfish philanthropy and christian benevolence of the people, in freely donating their money to support religious institutions, independent of the State, through which incalculable aid and energy is given to good government, ought to receive generous room for action. And that the State gratefully recognizes the results of their noble work, alike contributing to our national progress and defence and giving our people a character finding no equal in the history of the past, no superior in the present and full of promise in the future.

"And that the State should not seek to raise revenue for their charitable donations by taxation of religious institutions or endanger or embarrass their progress by restrictive legislation of any character."

<sup>684</sup> *Laws of Iowa* (Public), 1874, p. 60.

<sup>685</sup> *Laws of Iowa* (Public), 1874, p. 34.

<sup>686</sup> *Laws of Iowa* (Public), 1874, p. 55.

<sup>687</sup> *Iowa State Register*, Vol. XV, No. 47, February 2, 1876.

<sup>688</sup> *Senate File*, No. 39, relative to the taxation of church property is as follows:

“That no property of religious societies shall be omitted from assessment and taxation, except such as may be owned and used for the purpose of public worship, and from which such society derives no pecuniary benefit.

“Sec. 2. Such place of worship shall embrace the house used by such religious society for the public preaching of the religious principles held by such society, and other forms of religious worship and meetings connected therewith.

“Sec. 3. It may contain one or more lots or tracts of land, with the church buildings thereon, and other out-buildings which are habitually, and in good faith, used as a part of the place of worship; but shall not include any dwelling house or other buildings not properly appurtenant thereto.”—*Iowa State Register*, Vol. XV, No. 59, February 16, 1876.

<sup>689</sup> *Senate Journal*, 1876, p. 81.

<sup>690</sup> *Iowa State Register*, Vol. XV, No. 59, February 16, 1876.

<sup>691</sup> *Senate Journal*, 1876, pp. 186, 187.

<sup>692</sup> *House Journal*, 1876, p. 314.

<sup>693</sup> *Laws of Iowa*, 1878, p. 43.

<sup>694</sup> The following is the language of the petition:

“*To the Legislature of the State of Iowa:* We, the undersigned citizens of the State of Iowa, petition your honorable body to repeal the present laws of the State which exempt the property of religious institutions and societies, dedicated solely to these objects, from taxation; and we thus petition your honorable body for the following reasons:

“I. Because by exempting church property from taxation the State is assisting to support sectarian religion, which is unconstitutional and foreign to the purposes for which our government was



formed, and because for every dollar of property thus exempted a double burden of taxation is thrown upon an equal amount of other property not thus favored.

"II. It is a principle of justice that whoever enjoys the protection of a government should assist in its support. Churches demand and receive protection from our Government: and should riots occur by which such property should be destroyed, the State would be compelled to make good the same, although the property had never contributed a cent to the revenues of the State.

"III. By continued exemption of church property from taxation ecclesiastical corporations are enabled to amass immense wealth, the exemption of which lays much heavier burdens upon secular property. One corporation in New York City owns \$15,000,000 worth of property, \$9,000,000 of which pays nothing for the support of the Government. In the State of New York there are \$110,000,000 worth of ecclesiastical property exempt from taxation.

"IV. It is a matter of history, with which every member of your honorable body is no doubt acquainted, that whenever, by a long term of freedom from taxation the State has aided the church, it has at last been compelled, in self defense, to confiscate the wealth gathered by the church, which, by its power and influence, owing to such aid, was becoming dangerous to the peace and welfare of the State. The examples of Mexico and Italy are respectfully submitted. In the neighboring city of Montreal the church owns nearly two-thirds of the real estate, which forces one-third to pay taxes sufficient to protect the whole. The value of church property in the United States is \$500,000,000, and should its increase in the future be in proportion to its increase in the past, in the year 1900 it will reach the sum of \$3,000,000,000, a third more than our national debt. Foresight now on the part of your honorable body, may avert future disaster to our State.

"And for many other just reasons which will readily suggest themselves to your honorable body. And your petitioners will ever pray, etc., etc."—*Iowa State Register*, Vol. XIX, No. 27, February 1, 1880.

<sup>695</sup> The arguments in opposition to the policy of taxing church property are well stated in two *Register* articles.

"The reason why church edifices should not be taxed besides the

fact that they are not owned for pecuniary profit is that the churches are educators, standing thus in the same relation to the State and the public schools. Our school houses are also exempt from taxation. The man who says he is indirectly taxed for churches because they are not taxed, and that it is not right to require him to bear a burden of this kind when he makes no use of churches, might, if he had no children to educate, say with equal propriety that he should not be taxed for school purposes. Society by a large majority believes churches are needful not only because many use them as places of worship but because the church has a civilizing and elevating influence, and recognizing its benefits, which are shared alike by every citizen, our laws are wisely framed to exempt churches as well as school houses from tax so long as they are not held for pecuniary profit. As this exemption is given alike to all churches, it is not probable that any one of them will ever get such power over the government as to endanger the liberties of the people. In truth, however, the church in this country has proved the palladium of liberty."—*Iowa State Register*, Vol. XIX, No. 24, January 29, 1880.

"The demand that church property be taxed is being urged upon the Legislature of this State through the press and by petition. It is argued that as this class of property is protected by the law it should contribute its share toward the expense thus incurred. There is an appearance of fairness in the proposition, but we believe a careful consideration will demonstrate its fallacy. Leaving out of the question the truth of the doctrines taught in the churches, no one who has studied the case will deny that the general effect of religious teaching is good. The tendency is to make men better citizens, reform criminals, and diminish crime. The work thus accomplished in the direction of moral reform has a money value far greater than the amount remitted in the shape of taxes. Then it must be remembered that churches are sustained purely by voluntary contributions from people, many of whom lay no claim to being religious, but who believe that society demands and requires such a conserving force for its own welfare. To levy taxes upon church property would be to lay an additional burden upon these people who perhaps are no more benefitted by churches than their neighbors who give nothing. We do not believe there is a demand or a desire on the part of

the great mass of the people for the taxation of church property, nor do we apprehend that there is the slightest danger of the Iowa Legislature taking such action.”—*Iowa State Register*, Vol. XIX, No. 43, February 20, 1880.

<sup>696</sup> *Laws of Iowa*, 1880, p. 185.

<sup>697</sup> The following statement was made by the Auditor of State:

“The law granting exemptions from taxation for tree culture is unequal in its effects and is of very little value to the State. Seventy-eight of exemptions are claimed and granted illegally. Rarely is any attention paid to the requirements relative to distances and cultivation of trees. It seems to me that the prudent husbandman needs no premium or bribe to induce him to adorn his home with useful and ornamental trees or to cultivate orchards and fruits of different varieties. In Statement No. XIV I have tabulated a column showing the amount exempted in the several counties. The aggregate sum is \$6,305,884. This amount of money should, in my opinion, bear its equal share of the burthen of taxation. I recommend to the legislature the unconditional repeal of the law granting exemptions for fruit and forest tree culture.”—*Report of Auditor of State*, 1881, pp. 8, 9.

<sup>698</sup> *Iowa State Register*, Vol. XXIII, No. 69, March 20, 1884.

<sup>699</sup> *House Journal*, 1884, p. 521.

<sup>700</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. V, p. 329.

<sup>701</sup> *Senate Journal*, 1886, p. 93.

<sup>702</sup> *Senate Journal*, 1886, p. 201.

<sup>703</sup> The following is a copy of the Gatch bill:

“SECTION 1. That from and after the year 1887 every homestead exempted by law from judicial sale and selected and designated as such homestead as hereinafter provided shall in favor of the same person or persons from and after the year 1887 be also exempt from ordinary taxation to the value of one thousand dollars, which amount for the purpose of such exemption shall after all equalizations for the year have been made be deducted by the County Auditor from the amount of the valuation of such homestead for taxation.



“Sec. 2. In order to secure the exemption from taxation herein provided for, the person claiming the same shall on or before the first Monday in June of the year in which it shall be first so claimed, make and file for record in the ‘Homestead Book’ provided for by Section 1999 of the Code of Iowa, a declaration in writing which shall contain a description of the property claimed as a homestead sufficient for its identification by any competent surveyor, a statement that it is actually occupied by the claimant as such and that he intends to so occupy the same during the next succeeding year, a statement of the facts constituting the same the homestead of the claimant, and a claim of such exemption, which declaration shall be sworn to by the claimant and duly acknowledged before some officer authorized to take the acknowledgment of deeds, and every such claimant shall also each year thereafter on or before the first Monday in June, make and file with the County Auditor an affidavit stating that such declaration has been made, the book and page where the same is recorded, and that the property is still the homestead of such claimant, in his actual occupancy as such, and that he intends so to occupy it during the next succeeding year.

“Sec. 3. The County Recorder of any county in which any such homestead is situated shall on the filing of any such declaration for record, forthwith enter in an entry book or index to be kept by him for that purpose the date of filing, name of claimant and description of the premises, and deliver a certified copy of such entry to the County Auditor who shall on receipt thereof forthwith transcribe the same into a duplicate entry book or index to be kept by him for that purpose, and shall as soon thereafter as practicable record such declaration in said homestead book.

Sec. 4. Any person succeeding as survivor or otherwise to the homestead rights of any person who shall have filed the declaration hereinbefore provided for, shall, in order to secure the exemption provided for by Section 1, of this act, make and file with the County Recorder an affidavit stating the facts by virtue of which he claims to succeed to such rights, referring therein to the book and page where the declaration containing the description of the homestead is recorded, and that he is now in the actual occupancy of such property as a homestead and intends to so occupy the same during the next succeeding year, which affidavit shall also be recorded in

said Homestead Book and so indexed in said entry book as to contain a reference to the book and page of the record of said declaration, and the County Auditor, on making such entry shall forthwith deliver a certified copy to the County Auditor, who shall at once transcribe the same into his duplicate entry book and the person so claiming such rights in said homestead, shall also each year, on or before the first Monday in June, make and file with the County Auditor an affidavit stating that he is still in the actual occupancy thereof, and that he intends so to occupy the same during the next succeeding year.

“Sec. 5. The affidavits of continued occupancy and intent to occupy required by sections 2 and 4 hereof shall be made on printed blanks prepared by the County Auditors of the several counties for that purpose, but as far as practicable in a book of such blanks to be provided and kept in the office of each County Auditor for that purpose, and every loose or detached affidavit so made and filed shall by said Auditor be forthwith pasted or otherwise securely fastened into said book of blanks and the fact and date of filing of every such affidavit shall by said Auditor be entered in his duplicate entry book.

“Sec. 6. The County Auditor shall, each year, in making out the tax list, in every case in which the value of any such homestead exceeds one thousand dollars, deduct that amount from the valuation and enter the balance in the proper column of the tax list, as the value of such homestead, noting the fact of the deduction of one thousand dollars having been made on account of its homestead character; and whenever the valuation of any such homestead shall not exceed one thousand dollars the value column of the tax list shall be left blank and the Auditor shall note opposite the description the fact of the homestead character of the property.

“Sec. 7. The county recorder and the county auditor shall be entitled for services to be by them respectively performed under this act to the following compensation: The county recorder for entering for record and recording any such declaration and making and delivering to the Auditor a copy of his entry in the entry book, fifty cents, and for entering for record and recording each affidavit by him required to be recorded and making and delivering to the Auditor the copy of his entry in the entry book, twenty-five cents, and



the auditor for transcribing every such entry delivered to him by the recorder, twenty-five cents, payable in each case by the claimant."—*The Iowa State Register*, January 28, 1886.

<sup>704</sup> *The Iowa State Register*, March 4, 1886.

<sup>705</sup> *The Iowa State Register*, March 4, 1886.

<sup>706</sup> See above, p. 272. Also Vol. II, Chapter XXIV.

<sup>707</sup> "One of the most important bills before the Legislature", wrote the editor of the Register, "is that of Senator Gatch of Polk to exempt a certain share of every homestead in the State from taxation. This bill was introduced two years ago and supported by the Senator with very telling facts and conclusive arguments. He had really convinced the Senate of the justice of it, but many were too conservative to follow their own convictions. An interview with the Senator given elsewhere gives the main arguments in support of the bill. It will be seen by his statement that property in the State is rapidly and alarmingly escaping taxation, until as in last year, over \$1,300,000,000 so escaped all taxation. His statements answer the objection, that this would be a too radical change and the exemption of too much property for taxes, by showing that as things are now going real estate is made to bear far more than its share of taxation. It is undoubtedly true that the rich man with bonds, stocks, mortgages, and private loans, or government bonds, pays less of his real share of taxation than the poor man with a homestead or the man with comfortable means. The richest men in Iowa pay the least tax in proportion. Their property is hidden away in various forms where the assessor cannot find it. Successful evasion or unblushing perjury saves hundreds of millions of dollars of rich men's property from taxation.

"It is undoubtedly true there should be some method by which bulk property, such as real estate, buildings, factories, etc., which can be seen and therefore cannot escape taxation, shall be saved from bearing nine-tenths of taxation, as now, and the unseen property of rich men made to bear something at least of the public burden. It has been proposed to obviate this difficulty and solve the problem by enacting an income law. The plan of Senator Gatch is really simply another way of imposing an income tax. Some change will have to be made whereby seen property will be taxed less and un-



seen property more. As it is now enterprise in land owning, house building and home making pays nearly all the tax. The people who do not put their money into active forms of investment, nor use it to build houses nor own farms, nor to create and run factories, nor to erect buildings of any kind, nor to engage in business or merchandise or farming, escape nearly all of their share of taxation, and yet have the full benefit of the protection of government in every respect. Senator Gatch's bill may not be the best plan to accomplish this much needed reform, but it is certainly an honest and frank attempt toward beginning legislation which will finally end in a better method and one more equitable for raising the revenue of the State. The figures he gives are wonderfully suggestive. We submit them to the careful and earnest consideration of the people, who know that in Senator Gatch they have a representative anxious only to promote the public good, and always fearless in standing by that which he believes to be right."—*The Iowa State Register*, February 16, 1888.

<sup>708</sup> *Report of the Revenue Commission of Iowa*, 1893, pp. 9, 10.

<sup>709</sup> *Laws of Iowa*, 1896, p. 39.

<sup>710</sup> *Code of Iowa*, 1897, p. 453.

<sup>711</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 10.

<sup>712</sup> The following is the text of the law relative to such exemptions:

"That the following named property is exempt from taxation until January 1st, 1910, viz: All mills, buildings, machinery, tools, apparatus and appliances for the manufacture of sugar, the land upon which said mill is situated not to exceed ten acres, the capital invested in the business of the manufacture of sugar from beets raised in the state of Iowa, all personal property used in connection with said business, also the stock, shares, and certificates of any company or corporation actually engaged in said business."—*Laws of Iowa*, 1900, p. 23.

<sup>713</sup> *Laws of Iowa*, 1902, p. 34.

<sup>714</sup> *Laws of Iowa*, 1906, p. 33.

<sup>715</sup> The following is the text of Section 10 of this act:

"Forest reservations fulfilling the conditions of this act shall be

assessed on a taxable valuation of one dollar per acre. Fruit tree reservations shall be assessed on a taxable valuation of one dollar per acre for a period of eight years from the time of planting. In all other cases where trees are planted upon any tract of land, without regard to area, for forest, fruit, shade or ornamental purposes, or for windbreaks, the assessor shall not increase the valuation of such property because of such improvements."—*Laws of Iowa*, 1906, p. 36.

<sup>716</sup> *Laws of Iowa*, 1907, p. 65.

<sup>717</sup> *Laws of Iowa*, 1909, pp. 75, 76.

<sup>718</sup> In a leading Iowa case the language of the court was as follows: "Taxation is the rule and exemption the exception; therefore, strict construction of the statute under which the exemption is claimed is also the rule."—*Farwell vs. Des Moines Brick Manufacturing Co.*, 97 Iowa 297. See also *Sioux City vs. Independent School District*, 55 Iowa 152.

<sup>719</sup> Judge Deemer in *Lacey vs. Davis*, 112 Iowa 106. See also *Report of Attorney General of Iowa*, 1898, p. 255.

<sup>720</sup> *Supplement to Code of Iowa*, 1907, pp. 254-256.

<sup>721</sup> See Chapter XIV.

## CHAPTER XIII

<sup>722</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 102.

<sup>723</sup> Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 106.

<sup>724</sup> *Laws of Iowa*, 1838-1839, pp. 401-418.

<sup>725</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>726</sup> *Laws of Iowa*, 1840-1841, p. 65.

<sup>727</sup> *Laws of Iowa*, 1848, Extra Session, p. 63.

<sup>728</sup> *Code of Iowa*, 1851, p. 75.

<sup>729</sup> *Laws of Iowa*, 1858, p. 305.

<sup>730</sup> *Revision of 1860*, pp. 108, 109.

<sup>731</sup> *Laws of Iowa*, 1866, p. 80.

<sup>732</sup> *Laws of Iowa*, 1870, p. 20.

<sup>733</sup> *Laws of Iowa*, 1870, p. 60.

<sup>734</sup> *Revision of 1860*, p. 190.

<sup>735</sup> *Laws of Iowa*, 1870, p. 141.

<sup>736</sup> See Vol. II, Chapters, XVI, XVII.

<sup>737</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 332.

<sup>738</sup> "To my mind," wrote Governor Merrill, "five per cent. is as high a rate of taxation as should be levied upon any property in any one year, exclusive of amounts necessary on account of bonded indebtedness.

"As a judicious step toward such limitation, I recommend the repeal of the acts of 1868 and 1870, allowing townships, etc., to tax themselves to aid in building railroads. Under these acts, or more properly that of 1870, the sum of \$1,077,703.38 was levied in that year. It is fair to estimate that an equal amount was voted in 1871; in all over \$2,100,000. It is believed that most of this outlay has been well invested, and will bring ample return in increased commercial facilities, influx of population, and development of resources, to the communities interested. Nevertheless, the policy is at best a questionable one, to be justified only because of the great benefit expected from it, to be retained only for a time, and by no means to become part of the permanent law of the State".—Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. III, p. 334.

<sup>739</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, p. 17.

<sup>740</sup> *Laws of Iowa* (Public), 1872, p. 59.

<sup>741</sup> *Laws of Iowa*, 1868, p. 54; 1870, p. 105.

<sup>742</sup> The act to limit taxation for teachers and contingent funds in school districts reads as follows:

"Section 1. That the amount of tax levied under section 31, chapter 172, acts of the Ninth General Assembly, shall hereafter be limited as follows: The amount to be raised for 'contingent fund'



shall not exceed five dollars per scholar, and the amount raised for 'teachers' fund,' including the amount received from the semi-annual apportionment, shall not exceed fifteen dollars per scholar, for each scholar residing in the district-township or independent district for which the tax is levied. The number of persons between the ages of five and twenty one years, as shown by the last report of the county superintendent, shall, for the purposes of this act, be deemed the number of scholars in each school district.

"Sec. 2. The board of supervisors shall, at the time of levying the taxes for contingent and teachers' fund, certified under said section 31, ascertain whether the amount so certified exceeds the limitation in this act contained, and, in case of any excess, they shall reduce the per centum of tax levied, until the amount shall come within said limitation".—*Laws of Iowa* (Public), 1872, p. 23.

<sup>743</sup> *Code of Iowa*, 1873, p. 55.

<sup>744</sup> *Code of Iowa*, 1873, p. 86.

<sup>745</sup> *Code of Iowa*, 1873, p. 332.

<sup>746</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. IV, pp. 120, 121.

<sup>747</sup> See above, p. 112.

<sup>748</sup> *Laws of Iowa*, 1878, p. 147.

<sup>749</sup> *Laws of Iowa*, 1882, p. 39.

<sup>750</sup> *Laws of Iowa*, 1884, p. 157.

<sup>751</sup> *Laws of Iowa*, 1888, p. 21.

<sup>752</sup> *Code of Iowa*, 1897, pp. 360-364.

<sup>753</sup> *Code of Iowa*, 1897, pp. 390, 391.

<sup>754</sup> *Code of Iowa*, 1897, p. 452.

<sup>755</sup> *Code of Iowa*, 1897, p. 786.

<sup>756</sup> *Code of Iowa*, 1897, p. 800.

<sup>757</sup> See Vol. II, Chapters XVI, XVII.

<sup>758</sup> "There are but few iniquities of a darker hue than some of the taxes in Iowa, levied by *the people*. Save us from the tender mercies of such people."—*The Iowa Daily State Register*, Vol. XIII, No. 41, February 18, 1874.

## CHAPTER XIV

<sup>759</sup> *Laws of Iowa*, 1838-1839, p. 401.

<sup>760</sup> *Laws of Iowa*, 1843-1844, p. 30.

<sup>761</sup> *Laws of Iowa*, 1847, p. 138.

<sup>762</sup> *Code of Iowa*, 1851, p. 77.

<sup>763</sup> *Code of Iowa*, 1851, p. 79.

<sup>764</sup> *Code of Iowa*, 1851, p. 79.

<sup>765</sup> The section of the *Code of 1851* referring to the deduction of debts from the amount of moneys and credits reads:

“In making up the amount of money and credits which any person is required to list, he will be entitled to deduct from their gross amount the amount of all bona fide debts owing by him; but no acknowledgement of indebtedness not founded on actual consideration, and no such acknowledgement made for the purpose of being so deducted, shall be considered a debt within the intent of this section; and so much only of any liability of such person as security for another shall be deducted as the person making the list believes he is legally and equitably bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute then so much only as he in whose behalf the list is made will be bound to contribute; but no person will be entitled to a deduction on account of an obligation of any kind given to an insurance company for the premium of insurance, nor on account of an unpaid subscription to any institution or society, nor on account of a subscription to, or installment payable on, the capital stock of any company or corporation.”—*Code of Iowa*, 1851, p. 79.

<sup>766</sup> *Revision of 1860*, pp. 111, 112.

<sup>767</sup> *Laws of Iowa*, 1870, p. 230.

<sup>768</sup> *Code of Iowa*, 1873, p. 136.

<sup>769</sup> *The Iowa Daily State Register*, Vol. XIII, No. 54, March 5, 1874.

<sup>770</sup> The vote, however, was close—21 ayes, and 24 nays—thus indicating that a large minority favored even more liberal exemptions.—*Senate Journal*, 1874, p. 250.

<sup>771</sup> *House Journal*, 1880, p. 312.

<sup>772</sup> *House File*, No. 493, 1880, by Nichols.

<sup>773</sup> *Iowa State Register*, Vol. XIX, No. 64, March 16, 1880.

<sup>774</sup> *Iowa State Register*, Vol. XIX, No. 21, January 25, 1880.

<sup>775</sup> This brief act is as follows:

"Section 1. That corporations organized under the laws of this state for pecuniary profit, and engaged in manufacturing, as defined by section 816 of the Code, and which have their capital represented by shares of stock, shall, through their principal accounting officers, list their real estate, personal property, and moneys and credits, in the same manner as is required of individuals; and their machinery used in their manufacturing establishments, shall, for the purposes of this act, be regarded as real estate.

"Sec. 2. The owners of capital stock of manufacturing companies, as herein provided for, having listed their property as above directed, shall be exempt from assessment and taxation."—*Laws of Iowa*, 1880, p. 48.

<sup>776</sup> *Report of Auditor of State*, 1881, p. 8.

<sup>777</sup> *Report of Auditor of State*, 1881, p. 6.

<sup>778</sup> *Senate Journal*, 1884, p. 94.

<sup>779</sup> *Iowa State Register*, Vol. XXIII, No. 50, February 27, 1884.

<sup>780</sup> The popular feeling behind the Duncan bill is forcibly stated in the following quotation in the *Register* entitled "Don't Tax Debts":

"For the last two years, at about this time, the *Argus* has called the attention of the General Assembly to a law on the statute book, which is wholly unjust, unfair and unequal. We refer to the law taxing mortgages and mortgaged property, which violates not only all ideas of what is 'fair and square,' but is inconsistent with the fundamental principles of taxation in a free government. Suppose that A, who is a poor man buys 40 acres of land of B for \$800, and pays \$100 down, balance of \$700 during 7 years, secured by mortgage, and interest bearing notes. Now, although the fee simple is in A, and he is entitled to possession, he really has only eighth interest in the land, the mortgage bears the other seven-eighths



until they are paid for; but when the State and county come to levy a tax on the land they compel A to pay on not only the one-eighth he really owns, but also on the remaining seven-eighths belonging to B, which he does not, and which he may never own. A tax is levied on A's liabilities as well as his assets. He pays tax on another man's money, and no sophistry can make anything else out of it. More than this, if A, who is struggling to make a home out of his forty acres, from sickness or unavoidable cause fails to pay the taxes promptly, not only on his one-eighth, but on B's seven-eighths by a clause in the mortgage the mortgage can be foreclosed, and unless A can pay, his capital, his labor and his hopes promptly disappear in B's pocketbook and that of B's attorneys, for this clause the courts enforce and pronounce legal and binding between the parties. So that the law compels A to pay taxes on his debts or B's credits, but it takes away his home if he fails to pay B's taxes as well as his own. This is an unjust discrimination—a discrimination the law makes with the poor and does not with the rich. In fact, it recognizes in the matters of moneys and credits, a principle *directly opposite*, for it allows a man to deduct from the amount he returns as moneys and credits whatever moneys *he owes*, but in the other case it makes the farmer *add* to his property what he owes, and if he doesn't pay tax on the whole, takes his farm and home away from him. Why does the law *add* in one case and *subtract* in the other? This is the thing the *Argus* protests against in the name of that struggling class who have little capital, except willing hands and strong hearts, but with this capital are making the prairies into small farms, which produce the wealth, the power, the independence of Iowa. We call upon our members, and members generally, to remedy this wrong by a law which will make taxation fair and equal as it ought to be. One law of this kind, which would relieve the burdens of the common people, would have a hundred, yes, a thousand times more value than all the sentimental bosh and humbug which serves only to consume time, and give opportunity for individual dress parade. Objections would be urged, but they could not stand against an honest and determined advocate of a reform which is clearly right, much needed, and in the interest of the best and most deserving class of the citizens of this commonwealth."—*Iowa State Register*, Vol. XXIII, No. 28, February 1, 1884.

<sup>781</sup> *The Iowa State Register*, February 9, 1886.

<sup>782</sup> *Senate Journal*, 1886, p. 92.

<sup>783</sup> *The Iowa State Register*, February 9, 1886.

<sup>784</sup> *Laws of Iowa*, 1892, p. 100.

<sup>785</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 10.

<sup>786</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 10.

<sup>787</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 12.

<sup>788</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 12.

<sup>789</sup> See above, p. 99.

<sup>790</sup> *Report of the Revenue Commission of Iowa*, 1893, p. 12.

<sup>791</sup> What the people were thinking of along these lines is well stated in the following resolution passed by the Farmers' Club of Jefferson County:

"All mortgages, either on chattels or real estate shall be listed, assessed and taxed to the mortgagor, as all other property is listed and taxed. A receipt of the taxes thereof shall be a credit on the notes or mortgages thereof for the full amount of the taxes on same. All owners of real estate or personal property mortgaged shall have the same listed assessed and taxed the same as other property, less the amount of the mortgage on the same. Also the supervisors should furnish all persons taxable with a blank list of all property taxable prior to the time of assessment. It should be a criminal offense to give in an incorrect list".—*Iowa State Register*, February 28, 1894.

<sup>792</sup> *Report of Auditor of State*, 1893, p. 8.

<sup>793</sup> *Report of Auditor of State*, 1895, p. 4.

<sup>794</sup> *Code of Iowa*, 1851, p. 79; *Revision of 1860*, p. 111; *Code of Iowa*, 1873, p. 136.

<sup>795</sup> *Code of Iowa*, 1897, p. 457.

<sup>796</sup> *Code of Iowa*, 1897, pp. 460, 461.

<sup>797</sup> *Code of Iowa*, 1897, p. 462.

<sup>798</sup> H. F. 170—*House Journal*, 1898, pp. 344, 345.

<sup>799</sup> H. F. 60—*House Journal*, 1898, p. 196.

<sup>800</sup> *House File*, No. 60, 1898.

<sup>801</sup> H. F. 120—*House Journal*, 1898, p. 254.

<sup>802</sup> The Penick bill which formed the basis of prolonged debate in the session of 1898 is as follows:

“Section 1. That in the assessment of all property, except the property of corporations, there shall be deducted from the assessed value thereof the full amount of bona fide mortgages and other liens thereon and the assessor in such cases shall return for taxation the assessed value of such property, less the amount of such mortgages and other liens thereon.

Sec. 2. All mortgages and other liens on property except mortgages on the property of railroad corporations and other corporations of a public character shall be assessed for taxation in the name of the record owner of such mortgages or liens at the time of such assessment; and when said assessment is entered upon the tax list, it shall constitute a lien on such mortgage or other lien, and the debts secured thereby, and the same shall be collected by the county treasurer as other taxes.

Sec. 3. The owner of the property on which said mortgages or other liens exist, and the mortgagor in such mortgages, and the debtor in such cases of liens, shall each have the right to pay said taxes so assessed against the same, and any payment of taxes so made by them shall be considered and treated as a payment upon such indebtedness and to the extent thereof a discharge of the same.

Sec. 4. In case of a sale of said mortgages or other liens by the county treasurer to satisfy said taxes thereon, the treasurer shall assign the same upon the record thereof, and such assignment shall convey to the purchaser the full right and title to such mortgages or liens and the debt secured thereby, and the right to collect the same by action or otherwise, as their own property.”—*House File*, No. 120, 1898, by Penick.

<sup>803</sup> The purpose of the bill is made clear in the following statement:

“The next matter to claim the attention of the house was house file 120 by Penick of Lucas, providing for the listing and taxing



of mortgages and other liens on real estate, which, like the preceding bill by Van Houten, had been made a special order for Tuesday, but had been forced over by the protracted debate on the Ladd suffrage resolution. The essential feature of the measure, a comprehensive synopsis of which has been published heretofore in *The Register*, is the embodiment of a provision taxing mortgages and similar collaterals upon which foreign money is very largely loaned to the proportionate extent of the interest given the mortgagee by the amount of the loan secured by the mortgage. In other words, it is an attempt to compel the owners of millions of dollars of foreign money loaned on Iowa farms and Iowa real estate to bear their equitable share of the burdens of taxation, instead of, as has been the custom for several decades, compelling the borrower to pay taxes not only upon the property upon which the mortgage has been given, but also of the interest the holder of the mortgages has in the property by reason of such mortgage. The meat of the idea embodied in the Penick bill is to relieve the farmers of Iowa who have to borrow money from being compelled to pay double taxes, their own and those of the man from whom they borrow money."—*The Iowa State Register*, February 17, 1898.

<sup>804</sup> This speech, which was characterized by force rather than logical argument, was in part as follows:

"In my judgment there is no question, there can be no question as to the justice and merits of the measure under consideration. The Supreme Court of Oregon, in a well considered opinion, has decided that a statute exactly like the one contemplated in this bill is constitutional. I grant you that the bill may not be perfect in every detail, no product of the human brain nor hand is absolutely perfect, but this measure is a long step forward along the lines of justice and equality. It seeks to divide the burdens of taxation and do justice to honest toil. Too long already have the few reaped where the many have sown. Too frequently through unjust legislation has the farmer been farmed. I would not attack the best interests of any class of our people; I would not array labor against capital. Too much has been done along this line already. I would protect capital as well as labor, and not discriminate against either. I honor the frugal and industrious who accumulate the wealth without the aid of special legislation, but I do believe that

every citizen of our great state should have an equal chance in the race for life. I do believe that capital and labor should both stand equal before the law.”—*The Iowa State Register*, February 17, 1898.

<sup>805</sup> *House Journal*, 1898, p. 466.

<sup>806</sup> *House Journal*, 1898, pp. 654, 655.

<sup>807</sup> *House File*, Nos. 169, 170, 1898.

<sup>808</sup> *The Iowa State Register*, February 18, 1898.

<sup>809</sup> “In reply, Hinkson claimed that all the arguments presented in opposition to the passage of the bill were predicated upon the dual theories that while it worked an injustice, that because of the necessity for revenue, the law as it is should be permitted to remain unchanged regardless of the hardship it worked upon the man whose money was invested in personal property, and who was really least able to bear the burden, and he said further that, for some reason which no one seemed able to explain, a distinction should be made between the classes of property, moneys and credits, on the one hand, and other kinds of personal property on the other. He said that in answer to the first proposition, that it would reduce the revenue, the house had just refused to repeal section 1311 of the code, thereby subjecting all moneys and credits to taxation, which would have the effect to very greatly increase the revenue, and that it was, in his judgment, exceedingly poor grace to raise the objection of the reduction of the revenue as a reason why the measure before the house should not be adopted, no matter how just the principle embodied; that it seemed to him, if the house had really been anxious to enact a law that would raise the revenue, it should have repealed section 1311; that for his part he was wholly unable to see why this species of class legislation should be enacted in favor of moneys and credits. He thought this last named class of property as far as the question of taxation was concerned, should be placed upon the same basis as other classes of personal property, and challenged the opponents of the bill to give any good reason why such distinction should be made.”—*The Iowa State Register*, February 18, 1898.

<sup>810</sup> *The Iowa State Register*, February 18, 1898.

- <sup>811</sup> *The Iowa State Register*, February 24, 1898.
- <sup>812</sup> *House Journal*, 1898, p. 841.
- <sup>813</sup> *Senate Journal*, 1898, p. 818.
- <sup>814</sup> *Message of Warren Garst, Governor of the State of Iowa*, January, 1909, pp. 23, 24.
- <sup>815</sup> *House Journal*, 1909, p. 941.
- <sup>816</sup> *House Journal*, 1909, p. 222.
- <sup>817</sup> *House Journal*, 1909, p. 194.
- <sup>818</sup> *House File*, No. 68, 1909, by Calkins.
- <sup>819</sup> *House File*, No. 127, 1909.
- <sup>820</sup> *House Journal*, 1909, p. 163.
- <sup>821</sup> *House File*, No. 26, 1909, by Ward.
- <sup>822</sup> *Facts with Reference to Taxation of Mortgages*, February, 1909, p. 2. (Leaflet prepared by Association of Iowa Tax Ferrets.)
- <sup>823</sup> Data is given in the following counties: Allamakee, Clayton, Cerro Gordo, Chickasaw, Fayette, Floyd, Mitchell, and Winne-shiek.—*Facts with Reference to Taxation of Mortgages*, 1909, pp. 10-12. (Leaflet prepared by Association of Iowa Tax Ferrets.)
- <sup>824</sup> *House Journal*, 1909, pp. 630, 631.
- <sup>825</sup> *House Journal*, 1909, p. 955.
- <sup>826</sup> See Chapter VI.
- <sup>827</sup> *Equitable Life Insurance Co. vs. Board of Equalization*, 74 Iowa 178.
- <sup>828</sup> 75 Iowa 770.
- <sup>829</sup> *Boyer vs. Boyer*, 113 U. S. 689.
- <sup>830</sup> *First National Bank of Albia vs. City Council of Albia as Board of Equalization*, 86 Iowa 28.
- <sup>831</sup> *Clark vs. Horn*, 122 Iowa 375; *Cross vs. Snakenberg*, 126 Iowa 636; *Davenport vs. Mississippi and M. R. Co.*, 12 Iowa 539.
- <sup>832</sup> *Barber vs. Farr*, 54 Iowa 57.
- <sup>833</sup> *Hunter vs. Board of Supervisors*, 33 Iowa 376.



- <sup>834</sup> *Coover vs. Hatten*, 113 N. W. Reporter 470.
- <sup>835</sup> 12 Iowa 547.
- <sup>836</sup> *Cooley on Taxation* (2nd edition), p. 56.
- <sup>837</sup> *Jaggard on Taxation*, Iowa, p. 312.
- <sup>838</sup> *Code of Iowa*, 1897, pp. 460, 461.
- <sup>839</sup> *Macklot vs. Davenport*, 17 Iowa 379.
- <sup>840</sup> *Carpenter vs. Jones County*, 130 Iowa 494.
- <sup>841</sup> *Stein vs. Local Board of Review*, 113 N. W. Reporter 339.
- <sup>842</sup> *In re Appeal of Bailies*, 127 Iowa 124.
- <sup>843</sup> *Schoonover vs. Petchina*, 126 Iowa 261.
- <sup>844</sup> 67 Iowa 38.
- <sup>845</sup> See Chapter VI.
- <sup>846</sup> *Equitable Life Insurance Co. vs. Board of Equalization*, 74 Iowa 178.
- <sup>847</sup> *First National Bank of Albia vs. City Council of Albia as Board of Equalization*, 86 Iowa 28.
- <sup>848</sup> *Primghar State Bank vs. Rerick*, 96 Iowa 238.

## CHAPTER XV

- <sup>849</sup> See above, pp. 103, 106-141, 300.
- <sup>850</sup> *Laws of Iowa*, 1900, p. 33.
- <sup>851</sup> *Code of Iowa*, 1897, p. 489.
- <sup>852</sup> *Galusha vs. Wendt*, 114 Iowa 597; *Lambe vs. McCormick*, 116 Iowa 169; *Jewett vs. Foot*, 119 Iowa 359; *Meade Estate vs. Story County*, 119 Iowa 69.
- <sup>853</sup> 120 Iowa 383.
- <sup>854</sup> 121 Iowa 555.
- <sup>855</sup> 120 Iowa 385, 386.
- <sup>856</sup> *Laws of Iowa*, 1900, pp. 33, 34.
- <sup>857</sup> *Senate Journal*, 1902, p. 120.
- <sup>858</sup> *House Journal*, 1902, pp. 123, 124.

<sup>859</sup> *Senate File*, No. 71, 1902.

<sup>860</sup> The following estimate of the bill was made by *The Iowa State Register*:

"Senator Healy introduced a bill Monday to abolish tax ferret collection of taxes. It provides that no action for the recovery of taxes on omitted personal property can be begun unless brought within the year in which the property should be assessed. This not only kills the tax ferret proposition, but it prevents the county treasurer from listing omitted personal property except in the year when the assessor should have listed it. If it shall be discovered on January 1 that a half a million dollars of moneys and credits have been omitted from the assessment of the previous year no action can be begun under this law to recover taxes on that property. Senator Healy regards the tax ferret law as extremely vicious. He says that it has resulted in widespread wrong and injustice; not only that, but the poorer class of people, as a rule, have been the victims of the ferrets. He believes that the cases in which rich men have been compelled to pay taxes on omitted property are extremely rare. Under the judicial construction of the present law property omitted during five years may be newly listed and assessed and taxes on it collected. By his measure this limit is cut off and unless the property is discovered in the year in which it ought to be assessed no action to recover taxes on it can be begun."—*The Iowa State Register*, January 28, 1902.

<sup>861</sup> *House Journal*, 1902, pp. 743, 744.

<sup>862</sup> *House Journal*, 1902, p. 949.

<sup>863</sup> *House Journal*, 1902, p. 952.

<sup>864</sup> *House Journal*, 1902, p. 953.

<sup>865</sup> *Senate Journal*, 1902, p. 1155.

<sup>866</sup> The following is the wording of the bill to repeal the tax ferret law introduced by Senator John H. Jackson:

Section 1. That section thirteen hundred seventy-four (1374) of the Code be, and the same is hereby amended, by striking out from said section, the words "or such other person as the Board of Supervisors may appoint," appearing in lines thirteen and fourteen of said section.

Section 2. That chapter fifty (50) of the laws of the Twenty-eighth General Assembly is hereby repealed.

Section 3. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Register and Leader and Des Moines Daily Capital, newspapers published in Des Moines, Iowa.—*Senate File*, No. 216, 1904, by Jackson.

<sup>867</sup> *Register and Leader*, No. 620, March 12, 1904.

<sup>868</sup> *Senate Journal*, 1904, p. 1069.

<sup>869</sup> *House Journal*, 1906, p. 827.

<sup>870</sup> See *Facts with Reference to the Tax Ferret Law*, by Association of Iowa Tax Ferrets, March, 1904, pp. 3-7.

<sup>871</sup> The Polk County data set forth in the text was prepared by Worthington and Boynton, National Accounting Company of Des Moines.

<sup>872</sup> The data for Lee, Clayton, Floyd, Allamakee, Cerro Gordo, and Mitchell counties was prepared by Messrs. Peisen and Welch, expert accountants of Eldora, Iowa.

<sup>873</sup> Leaflet from a gentleman of Dubuque sent to members of the Thirtieth General Assembly and loaned to the writer by Senator John H. Jackson of Sioux City.

<sup>874</sup> See Vol. II, Chapter XXV.

<sup>875</sup> See above, pp. 132-139.

<sup>876</sup> A statement issued by the Commercial Club of Cedar Rapids, March 23, 1904, at the time the Jackson bill to abolish the tax ferret system was up for consideration, will give a clear idea of some aspects of the controversy. It reads in part:

“In reading the nine reasons given by them [the ferrets] for retaining the ferret law, these other thoughts occur to us.

“1st. It increases interest rates, lessens the supply of home money and burdens the man most entitled to the benefit, viz: the Iowa borrower.

“2nd. It effects every one who is interested in the best development and permanent prosperity of Iowa.

“3rd. It is causing the withdrawal from Iowa of thousands of



dollars of non-resident money and the investment outside of the state of hundreds of thousands of dollars of Iowa money.

"4th. It causes some to hide their money, others to buy local real estate and occupy it with tenants. Others buy land in other states and Canada and rent it or let it lie unused. It promotes tenantry and hinders the acquirement of homes by the worthy man of small means.

"5th. It has produced a tremendous business for attorneys to defend arbitrary and unjust listings by the ferrets.

"6th. Practically all good citizens who have observed its operation by 'up-to-date ferrets,' demand its repeal upon the ground that all possible good is largely over-balanced by the immediate and future bad effect.

"7th. The tax paying public realized that something was wrong with our system and accepted the ferret law as a cure for our ills, without diagnosing the case. The extreme possibilities of ferret operations were not foreseen even by the General Assembly that enacted the law and only recently in localities where operations have been most vigorous by 'up-to-date ferrets,' have the people gone deeply into the study of the question.

"8th. It is not in harmony with good business principles or wise government, whether local or otherwise.

"9th. To repeal the law would show to the people of Iowa that the Thirtieth General Assembly has the moral courage to recognize and correct an honest mistake or experiment in legislation and that it is ready and willing to take up the question of a careful revision along practical, scientific and sound economic lines, of that portion of the Iowa revenue law that deals with so-called taxable credits, to the end that the needs of our debtor citizens may be freely and cheaply supplied by their neighbors and a substantial surplus may be built up in every community for the development of home enterprises and for the strongest support possible that we can place behind our property and business values against the periodical day of financial depression.

"No one is asking legislative aid in the settlement of the present tax ferret claims. They will be taken care of by the persons interested, either by payment or appeal to the courts. We regard these settlements and the taxes that result from them, even though

large in some instances, as among the least important phases of the question.

“There have been cases where good men have ruined their reputation and business prospects by overreaching, even though within the law. Let the state take heed lest it do likewise.

“In conclusion, observe that the Jackson bill does not repeal one of Iowa’s broad laws, but only an experimental amendment that has proven itself a mistake.

“It does not, as the ferrets state, ‘tie the hands of our regular officials’ or take away any of their ample authority to enforce the collection of taxes.

“In effect it proposes to start over again at the point where the ferret law was enacted and in a careful, practical and intelligent manner, with the best talent obtainable and in the light of recent knowledge and experience, strive to secure a revenue law under which our cities can grow; all our people can prosper, help their neighbors and be honest, and which, in point of equity and adaptability to our conditions, will raise and maintain the reputation of Iowa for thrift, honesty and intelligence. It is a worthy aspiration—help us to attain it.

Respectfully,

COMMITTEE

March 23, 1904.

CEDAR RAPIDS COMMERCIAL CLUB.

<sup>877</sup> This is true of a large majority but not of all of the States.

<sup>878</sup> The reader is referred to a leaflet entitled *Facts With Reference to Taxation of Mortgages*, February 1909, prepared by the Association of Iowa Tax Ferrets, and presented to the Thirty-third General Assembly.

<sup>879</sup> *Economic Studies* (Published by American Economic Association), Vol. II, No. 3, pp. 127, 129.

<sup>880</sup> *Mortgage Taxation and Interest Rates* (New York Tax Reform Association), 1906, p. 6.

<sup>881</sup> Leaflet entitled *Recording Tax Law Has Reduced Interest Rate*, received from A. C. Pleydell of New York City.

<sup>882</sup> *Report of Wisconsin Tax Commission*, 1907, p. 406.

<sup>883</sup> *Facts With Reference to Taxation of Mortgages*, 1909, p. 14.

<sup>884</sup> *Facts With Reference to Taxation of Mortgages*, 1909, pp. 16, 17.

<sup>885</sup> Data compiled and furnished by the Iowa Tax Ferret Association.

<sup>886</sup> Statistics furnished by Worthington and Boynton of Des Moines.

<sup>887</sup> *The Tabor Beacon*, June 4, 1909.

<sup>888</sup> *The Tabor Beacon*, June 4, 1909.

<sup>889</sup> *The Fremont County Herald*, Vol. XXIV, No. 26, June 4, 1909.

<sup>890</sup> Clayton County has been worked by Peisen and Welch.

<sup>891</sup> Data received from Ben McCoy concerning the listing of moneys and credits in Muscatine County.

<sup>892</sup> The listing for 1909 was obtained from the records at the Polk County court house.

<sup>893</sup> It should be noted that we are speaking of actual value and not of assessed value.



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